EXHIBIT 5

OFFICE FOR DISPUTE RESOLUTION

DUE-PROCESS HEARING FOR

GEORGE WILLOUGHBY

Monday, April 26, 2010

VOLUME V

FILE 10264/08-09 LS

Transcript of Proceedings held before JAKE MCELLIGOTT, Special Education Hearing Officer, at Susquenita School District, 1725 Schoolhouse Road, Duncannon, Pennsylvania, commencing at 9:45 a.m. on the day and date above set forth.

Reporter: Rhonda K. Thorpe

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PROCEEDINGS

HEARING OFFICER:
We are on the record for the fifth and final session in the case at 1026408-09, George Willoughby and the Susquenita School District. It's approximately 9:40 a.m. We are gathered in the School District, and we are going to hear from the remainder of the District's witnesses today.
Unless someone has something to put on the record at this time, we're ready for the first witness, Mr. Clark.
ATTORNEY CLARK:
Our first witness is Becky Blazi.
HEARING OFFICER:
Would you please say and spell your name for the record?
MS. BLAZI:
Sure. Rebecca Blazi, B-L-A-Z-I.
HEARING OFFICER:
And Ms. Blazi, have you been here for prior sessions?
MS. BLAZI:
Yes.

HEARING OFFICER:
You've heard my instructions to other witnesses. I won't give those to you at length if you've heard them repeatedly, but just keep your voice up, use affirmative answers such as yes, no, correct, incorrect. If you don't know the answer to a question, let us know that so we can have it re-asked. And please try to avoid stepping on the attorney's words as they end their question when you begin to answer.
MS. BLAZI:
Okay.
HEARING OFFICER:
By extension, we will wait until your answer is complete until they move on to the next question. So bearing those things in mind, Mr. Clark will have questions for you first. We'll have you sworn in at this time.

REBECCA BLAZI, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION
BY ATTORNEY CLARK:
Q. Will you state your name for the record,

please?
A. Sure. Rebecca Blazi.
Q. I mispronounced your name at the very beginning, and I apologize for that.
A. That's okay.
Q. By whom are you employed?
A. I am technically self-employed. I am contracting with the company TherAbilities.
Q. And TherAbilities is providing services under contract to Susquenita School District?
A. Correct.
Q. How long have you been so engaged?
A. In Susquenita?
Q. Well, first of all, with TherAbilities?
A. With TherAbilities, I started in 2006.
Q. What is your educational background?
A. My B.S. is in speech/language pathology. I have a M.A. in communicative disorders. I hold the CCC, which stands for Certificate of Clinical Competence, which is issued through ASHA, which is the American Speech-Language-Hearing Association. I also have my state license to practice speech pathology. And I hold a teacher's certificate for teacher of the speech and language impaired.
Q. The teacher certification you have through the

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Department of Education?
A. Yes.
Q. And what certification areas do you hold a certificate in?
A. It's a Level II Certificate, and the title is speech and language impaired, so children with speech, language and hearing impairments.
Q. And you also hold a separate certification or licensure from the Commonwealth of Pennsylvania?
A. Yes.
Q. And what license is that?
A. It's the state license to practice speech therapy.
Q. And that's issued by the Pennsylvania Department of State?
A. Yes.
Q. Review with us your educational --- your employment history post your undergraduate degree?
A. I started working for the Capitol Area Intermediate Unit. I was employed there for a little over ten years.
Q. In what capacity?
A. I worked in both the preschool department and also the school-age department. I worked with students with severe disabilities. I worked in

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private schools. I worked in daycare centers, servicing kids ages 3 up until 21, age 21.
Q. Providing speech and language services?
A. Yes.
Q. And what was the last year you did that?
A. That was 2007.
Q. All right. And then since then, you have worked as an independent contractor with TherAbilities?
A. Yes.
Q. Describe, generally, what TherAbilities does?
A. TherAbilities is a pediatric agency that provides speech therapy, physical therapy and occupational therapy to school districts in the area and also private clients that come in that want supplemental services.
Q. And you've been providing services to George?
A. Yes.
Q. When did you begin providing services to George?
A. I first started in March of 2008, and that was with my evaluation. And as far as therapy, then it started in that following August is when therapy initially started.
Q. You said March of 2008. Would that actually

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be March of 2009?
A. Yes. Yes. I'm sorry.
Q. Now, how was it that you first came to be involved with George in any capacity?
A. Ms. Sawyer contacted me and asked me to do an evaluation, a speech and language evaluation.
Q. By Ms. Sawyer, you mean the special education director for the School District?
A. Yes.
Q. And do you recall the time frame when she asked you to do that evaluation?
A. It was the beginning of March.
Q. Did you do an evaluation?
A. I did.
Q. What did the evaluation consist of?
A. My evaluation consisted of some phonological awareness-type things, which was noted in his previous evaluation reports. And it targeted specifically receptive and expressive language skills and processing abilities.
Q. Why did you focus on those abilities?
A. I had read prior evaluations and information from George's parents, and that was the concerns that were raised, so those were the areas that we looked at --- that I looked at.

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Q. And did you do testing?
A. Yes, I did.
Q. What testing did you do?
A. I gave George the Word Test, which looks at different vocabulary skills and language functions. And I also gave George the Test of Adolescent Problem Solving.
Q. Why did you give him each of those two tests?
A. They focus on language skills as a whole. They focus on what goes on in a regular school day, the language that is involved in the curriculum. The problem-solving test looks at an adolescent's ability to problem solve in an everyday situation context.
Q. Did you report the results of the testing?
A. Yes, I did.
Q. Did you take part in an evaluation report that the team did for George in the spring of 2009?
A. Yes.
(Parents' Exhibit 37 marked for identification.)
BY ATTORNEY CLARK:
Q. I want to turn your attention to Exhibit P-37.
A. P-37?
Q. Yes. And specifically to page 6 of 16 of that

report.
A. Okay.
Q. Pages six and seven, that consists of the report that you provided --- sorry, six, seven and eight?
A. Yes, that is my information.
Q. And that reports the testing scores that you administered for George?
A. Yes.
Q. And did you participate in the re-evaluation report process, where all this information was gathered for George?
A. I did.
Q. What conclusions did you draw based on the testing that you administered?
A. My results were that George had deficits with both his receptive and expressive language skills, and he was in need of speech therapy.
Q. Now, do you have an adjectival qualifier for the degree of impairment?
A. Just based on these numbers and my evaluation report, prior to working with George for therapy, I would say that he had a moderate language disorder.
Q. Moderate with both expressive and receptive?

A. Yes.
Q. So moderate in both areas?
A. Yes.
Q. Now, what are the other qualifiers or descriptors that you would use?
A. We typically used anywhere from mild to moderate to severe.
Q. What is it that made him moderate in the area of expressive language skills?
A. In his expressive — that was mostly involved with the Test of Problem Solving. That has a lot of expressive answers required for that test. His total test score was 67, which is well below 85. He did have some areas close to the standard score, which is why I did not say that he was severe.
Q. Okay. And you were reviewing test results that are reported on page 7 of 16 in P-37?
A. Yes.
Q. So his total score was 67?
A. Yes.
Q. And if he had scored a — if his standard score was 85, that would be what?
A. He would be low average.
Q. But 67, in your opinion, made him moderately

impaired?
A. Yes.
Q. What testing results did you use to conclude that he was moderately impaired with regard to receptive language?
A. With receptive language I pulled from both of the assessments, the Word Test II, which is on page six there, and also then the Test of Problem Solving, which is on page seven. And again, on page six, with his total test being 72, a lot of those things are him listening, and that is more of the processing than receptive. So the 72 is what I based his moderate delay in receptive.
Q. Is that score off the same standard as the testing results for the verbal problem solving --- or the Test of Problem Solving?
A. Yes.
Q. And based on these results, you concluded that he was in need of speech therapy?
A. Yes, I did.
Q. How much speech therapy has he been given since?
A. We generally have been meeting for two sessions in a five-day week. Most recently we have been meeting for more just to make up some

missed sessions due to absences, snow delays and things like that. But the general recommendation is usually two 30-minute sessions per five-day week.
(Parents' Exhibit 39 marked for identification.)
BY ATTORNEY CLARK:
Q. Now, I want to turn your attention to Exhibit P-39. And within P-39 there are goals that begin on page 24.
ATTORNEY HUSIC:
Do you mean P-38?
ATTORNEY CLARK:
P-39.
A. Okay.
HEARING OFFICER:
What page number from P-39?
ATTORNEY CLARK:
I just lost my place. Twenty-four (24).
BY ATTORNEY CLARK:
Q. Which of these goals pertain to the speech and language instruction you provided for George?
A. Goal number one, which is on page 24, is a speech and language goal. And goal number two,

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which is on page 25, is the second speech and language goal. Those are the two goals that I have for George.
Q. Explain goal one.
A. Goal one is basically the receptive and vocabulary-type goal, so how it's written is that during the speech therapy sessions, the one-on-one sessions that we have, we will use content-related vocabulary in our sessions, and I want him to be able to state synonyms and antonyms of words, list categories and items in a category, tell how things are associated and compare the similarities and differences of items.
Q. And how would you describe George's progress on that goal?
A. George has actually achieved this goal is how it is worded, six out of eight on the rubric. He's achieved that goal.
Q. Explain how you measure his achievement on this goal.
A. Okay. This particular goal, I have a rubric system. And for each of the four features of language, there's a possible score of zero, a one or a two. And when we word the goal, we said that that goal would be achieved when George achieved a

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six out of eight. And so each session that I take progress monitoring data I score him on a zero, a one or a two based on the rubric, and he's achieved a six out of eight.
Q. You say you meet with George about twice a week?
A. Yes.
Q. What's the duration of these meetings?
A. Thirty (30) minute sessions.
Q. And they occur where and when?
A. They occur in the library and they are held before the school day, 7:15 to 7:45 in the morning.
Q. Is there anyone taking part in these classes besides George?
A. No.
Q. So it's all one-to-one?
A. Yes.
Q. And when did you conclude that he had achieved the goal?
A. This last third marking period.
Q. And did you do --- did you inquire with any of George's teachers to ascertain whether he had shown any ability to carry out that goal in their classrooms?

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A. Not yet. I planned to --- well, we planned to have an IEP review to talk particularly about what's happening in these classes.
Q. Okay. And what do you envision happening with this particular goal?
A. With this particular goal, when we meet for an IEP review a couple things can happen. What I would like to see is I would like to see it expanded a little bit. Instead of just saying he achieved it and the goal is done, possibly taking out some of the prompting and just raising the score on --- so instead of achieving a six out of eight, possibly achieving seven or even eight out of eight.
Q. Now, I want you to turn your attention to goal number two. What does that goal contain?
A. That is also a processing goal so that, again, in a one-on-one session I read a paragraph to George, the content has to be ninth-grade reading level, and I then ask him to --- I ask him comprehension questions about it, maybe who was it about, recalling things from the story. I ask him to retell the story and I take into consideration whether it was sequenced appropriately. That's the second language feature. The third language

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feature is him being able to recall details and descriptions accurately from what he heard me read.
Q. And how was it that you assessed George's progress on that goal?
A. The same way that I did for the first goal, is that every time that we do an activity like this, I take data and score him on a zero, one, two or three for this particular rubric. And the scoring for this goal, he will achieve this goal when he achieves a seven out of nine.
Q. What's his progress on this goal?
A. He is making very steady progress. He has not quite achieved this goal, but he's close, and he's making now consistent progress.
Q. Can you be more precise when you say he's close?
A. I'd have to look particularly, you know, at my progress report, but I would project just from observations and my therapy that within another month he would achieve this goal.
Q. Before the end of the current school year?
A. Yes.
Q. Are there any other goals that you work with on George?

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A. No. We do Earobics. It's done at home, and I touch base with George. He does that once for me every six weeks. But that's primarily done at home.
Q. Can you spell Earobics?
A. Earobics is E-A-R-O-B-I-C-S.
Q. What is Earobics?
A. Earobics is a research-based computer program. It targets literacy, phonology, auditory memory. It's used a lot for processing in kids who have --- kids who are having trouble with language.
Q. Describe functionally what happens with Earobics.
A. There are two levels with Earobics. There's a primary version, which I believe goes up to kids that are in sixth grade. And then there's the intermediate version --- I'm sorry. There's an adult --- there's an adolescent and adult version. And within that version, it can either be done in the clinical setting, which is more detailed, or it can be the home program, which is not quite as detailed. And George is using the home program of the adult/adolescent version. There are six different --- they're games, really, and it's self-driven, and it goes through things like

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rhyming, identifying whether sounds are the same or different, his ability to recall sounds and sequence sounds, but it's all in a game format.
Q. Can you give an example of what happens in Earobics, ---
A. Sure.
Q. --- of an exercise?
A. Sure. The first one that looks at auditory memory and processing might start out with nine squares on a screen, and each square has a different picture in it. And it might say --- the computer would say touch fire truck and baby, so he has to sequence it in that order. It progresses then to the point where the squares are there, there are no pictures, and he might be given four different words to sequence and there might be sounds in the background of people clapping or people cheering so that he has to try to weed out that background noise, remember what was said, and then process it so that he can sequence it then correctly.
Q. Have you used Earobics before with your students?
A. I have not used --- this is the first time I've used the adult/adolescent version. I have

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used the primary version.
Q. And you've used the primary version with younger students?
A. Correct.
Q. What is your impression about the Earobics program for younger students?
A. It's a wonderful program. I've seen a lot of results, mostly with the kids who are struggling with phonics and phonetic kind of things, the literacy, the comprehension, the processing. They think it's fun. They're not even really aware that they're learning, but we see great results.
Q. Is there a grade limit for the younger-based version?
A. I'm not sure exactly. I use it with kids up to fourth grade, but I believe that you can use it up to sixth grade, but I'm not certain.
Q. What are your impressions of the Earobics program for --- that George is using?
A. It has some good content. I think the game that I had just described, I think is very beneficial for kids who are in high school and even some adults, to help them weed out background noise and processing during background noise. Some of the games in the adult version seem a

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little elementary to me.
Q. And that's your impression from having seen the exercises that George has done?
A. Yes.
Q. Have you actually observed George do any Earobics exercises when you're working with him?
A. Yes.
Q. Have you observed him being able to multitask while he was doing Earobics?
A. I have.
Q. Explain that.
A. Just recently I had him do it where we --- in one session I have him go through each of the six activities, and then I --- after --- each game has its own little progress chart, and then I monitor his progress and I report that in my quarterly progress reports. And in this particular session George was also texting, which I did tell Ms. Kisher (phonetic) about. He had --- since we meet before school, sometimes he comes in and he will get his last-minute texting in.
Q. And by texting you mean what?
A. On his cell phone.
Q. Okay.
A. So because I like to see if the kids can do

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multiple things, which is a key component of processing, I just watched. I observed to see if he could get it right, to see if he would pause it, the game, the Earobics, to see if he would stop it. So I observed him. He was texting and listening to the game that I had just described. And it was up to four words, and he got them all correct while texting.
Q. While texting?
A. Correct.
Q. What impression do you draw from that?
A. He's come a long way in terms of processing. It used to be that during our sessions, if the bell would ring, I would make sure that I had to stop what I was saying because he really struggled. I would need to repeat myself, maybe reword. Now, the fact that he can, you know, either text something that is a conversation and listen and process and then complete that, that's pretty good.
Q. Now, you concluded when you did your testing about this time last year, 2009, that he was moderately disabled in expressive and receptive language?
A. Yes.

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Q. Do you still hold that opinion?
A. No, I would not say moderate.
Q. Why is that?
A. Because of the gains that he made in less than a year's time for both of the goal areas that we have.
Q. In both expressive and receptive language?
A. Yes.
Q. Well, based on what you see, how would you describe his level of impairment?
A. I would describe his level of impairment as mild speech/language impairment in both receptive and expressive still.
Q. Did you review any materials in George's record about the frequency modulator assistive technology?
A. Yes.
Q. Have you worked with students using that device?
A. I have.
Q. What kind of students have you worked with using that type of device?
A. The students that I've worked with mostly have had hearing loss, my primary experience.
Q. Have you worked with kids who are using —

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first of all, do you know why it was prescribed for George?
A. Yes, I do.
Q. And why was it?
A. He was diagnosed by the audiologist with central auditory processing disorder, and an FM system is recommended to amplify the sound that George is receiving and to tune out background noises so he can process better.
Q. And is that different from the use that you see with other students?
A. I have worked with another child who uses it for processing. That's a younger child.
Q. Have you used it with students who have it for hearing loss?
A. Yes, I have.
Q. In your experience, do you see students self-advocate for the FM system?
ATTORNEY HUSIC:
I'm going to raise an objection, because what we're getting into a line of questioning comparing to other students. This particular witness never worked with George insofar as George's ability to work with the FM system, and I don't think it's of any moment to

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get this witness' input into her experience with other students using the FM system. We're just concerned about George's ability, and this witness never observed that.
HEARING OFFICER:
Response, Mr. Clark?
ATTORNEY CLARK:
This witness is qualified. She's worked with students who have used FM systems for hearing loss and for central auditory processing. And as an offer of proof, she will testify that students who use it for hearing loss are very strong advocates of its use. And those who are not --- who do not use it for that are not strong advocates for its use.
HEARING OFFICER:
Well, let me ask you a question. This offer of proof means here's where we're going.
A. Okay.
HEARING OFFICER:
Based on that offer of proof, if that amounts to your testimony in terms of the student's preference or non-preference in the use of this technology, is it based on your experience

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with students?
A. Yes.
HEARING OFFICER:
Okay. I think I will sustain the objection because you're going to be asking her about her experience with particular students and not a hypothetical based on some area of expertise. So I'll sustain the objection. In other words, other students have done this, but I don't think we can take that and project it onto what George Willoughby might or might not have done or gained from it. So I'll sustain the objection.
ATTORNEY CLARK:
So is your ruling then that it would be appropriate to ask that question as a hypothetical?
HEARING OFFICER:
Well, at that point, in an area of expertise, it would. Now, I think Ms. Husic ---
ATTORNEY HUSIC:
Right.
HEARING OFFICER:
--- might have ---. I mean, what I'm saying is expert witnesses can talk about

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hypothetical situations. That's normally based on research. In this case, if the witness is going to testify out of experience with children and you're going to ask her about another child, I don't think that those two comport.
ATTORNEY CLARK:
I'm not going to ask her about another child. I'm going to ask her ---.
BRIEF INTERRUPTION
ATTORNEY CLARK:
I was going to ask her about her experience in observing students and how they self-advocate for the use of the FM system.
HEARING OFFICER:
Right. But when I asked the follow-up question for my information about foundation, she said I'm going to testify about my experience with kids. And in that regard I don't see --- I don't see her saying, this is how other kids have used it, and then we can project that onto George Willoughby. I don't think that that's --- I don't think that's a foundation for it. If she's going to say research shows that, that's a different matter. But when she says, here's what I've observed with other kids, here's what I

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observed with George, the causation there --- in terms of her --- in her mind, the causation is --- it's unsupportable as testimony. So I'll sustain the objection if that's going to be the foundation.
BY ATTORNEY CLARK:
Q. Are you familiar with research involving the use of FM systems?
ATTORNEY HUSIC:
Objection. I think we're still going to go down the same path.
ATTORNEY CLARK:
Well, she hasn't been ---.
HEARING OFFICER:
Well, let's hear the objection.
ATTORNEY HUSIC:
I think it's going to go down the same path, and I still don't think it's relevant. You know, how a kid interacts or advocates himself for the FM system I think is very, very subjective. And I think each kid would vary in their ability to use the FM system and whether or not they want to continue using it. On that sense, you know, I don't think research would really be applicable to George's use or advocacy

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with the FM system, and therefore we object.
HEARING OFFICER:
Well, the FM system has --- at least at one time was an accommodation, and we've had testimony about its use and/or the difficulty with its use. To the extent that the witness might be --- and I would go further to say that we now have a foundation in terms of George's receptive language skills. So to the extent that this witness might have information about that with an accommodation that has been part of the student's program, at least at one time, if she has information about that, I will allow it. So I'll overrule the objection. And the question asked is, do you have a research component or basis for your understanding of use of FM systems?
A. I know the majority of the research that I have read deals with FM systems for kids with hearing loss. That's what I'm most familiar with.
HEARING OFFICER:
But the question is, do you feel that that research base gives you the ability to testify to their use in a situation like George's?
A. Yes.
ATTORNEY HUSIC:

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I'm going to raise an objection to that because I think it is very distinctive between the hearing loss versus a student that's been diagnosed with expressive and receptive language disorders. And I don't think we should allow this witness to go down that path, to extrapolate data that would be applicable, at least to her knowledge, regarding hearing loss to a student with expressive language disorder.
HEARING OFFICER:
I'll note the objection. It will be overruled, though, based on the answer to the question. So you can ask questions from that perspective of the witness.
BY ATTORNEY CLARK:
Q. Does your review of the research also include review of the extent to which students with hearing disorders self-advocate for the use of the FM system?
A. Yes.
Q. And to what extent do students with hearing disorders self-advocate for the use of the FM system?
A. If it's not there, if the battery dies, if they forget it, they are lost, are completely ---

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they can't hear. They can't function.
Q. What do those students intend then to do?
A. They make sure that they have it. They will remember where they put it. They make sure that they have batteries for it in case the battery dies.
Q. Based on your knowledge of the research, if the FM system were a benefit to George, to what extent would he --- would you expect him to self-advocate for its use?
ATTORNEY HUSIC:
I'm going to raise an objection. This witness did not ever observe George using the FM system, and therefore I don't know how that she knows George, other than in therapy sessions, to make a determination whether or not he would or would not self-advocate for use of the FM system.
HEARING OFFICER:
I'm going to sustain the objection. I don't think the witness can get inside George's mind.
BY ATTORNEY CLARK:
Q. What would you expect a student who gains benefit from an FM system to --- to what extent would you expect a student who gains benefit from

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an FM system to self-advocate for its use?
ATTORNEY HUSIC:
Objection. Same reason.
HEARING OFFICER:
Yes. I think I have to sustain that objection, too, because this is now a hypothetical student, and what would you expect a hypothetical student --- what would you expect to be in the mind of a hypothetical student with an FM system, and I don't think that that's something that the witness can testify to. I don't --- the question, as asked, at least --- what would you expect of a student, that takes us into the mind and motivation of the student, and I don't think that the witness can do that either with a specific student or hypothetically.
ATTORNEY CLARK:
Even with her understanding of the FM system and its use, the research?
HEARING OFFICER:
Yes. The answer to your question is yes, because the question, as asked, is what would you expect a student to do, and I don't know that any of us can testify to what we would expect anyone to do.

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BY ATTORNEY CLARK:
Q. Have you heard George self-advocate for the use of the FM system?
ATTORNEY HUSIC:
Objection. At no time in any of this witness' documents or her evaluation, the IEP goals, that never addressed anything related to the FM system, nor was it included as anything --- as part of the SDIs. So I don't know how this witness can even form an opinion or make a statement about George's position about the FM system.
ATTORNEY CLARK:
I'll withdraw the question. I'll ask another question.
HEARING OFFICER:
Okay. Question is withdrawn.
BY ATTORNEY CLARK:
Q. When you meet with George does he tell you about his likes?
A. Yes, he does.
Q. Does he tell you about his dislikes?
A. Yes.
Q. Has he ever expressed any interest in using the FM modulator ---

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ATTORNEY HUSIC:
Objection.
BY ATTORNEY CLARK:
Q. --- in your dealings with George?
HEARING OFFICER:
Did that conclude the question?
ATTORNEY CLARK:
Yes.
HEARING OFFICER:
Nature of the objection?
ATTORNEY HUSIC:
Still based upon relevance. And more particularly, I just want to add another component, that in this witness' progress report that had been reported and are in exhibits, there is no content, you know, that addresses this witness having any discussion with George regarding the FM system or his opinion about the FM system.
HEARING OFFICER:
I'm going to overrule the objection. That all may be true, but I think the question, as asked, is now about the witness' direct knowledge of a conversation with George. To the extent that the FM system, again, is in evidence, whether or

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not it's in the IEP or not that was pending at the time, it's certainly an issue in the case, so I'll overrule the objection. That means you can answer the question about conversations you've had with George about the FM system.
A. Can you repeat the question?
BY ATTORNEY CLARK:
Q. Sure. Has George expressed any interest, in your dealings with him, about using the FM system?
A. No.
Q. Has George expressed any interest in using any assistive technology that would aid him in the area of expressive or receptive language?
A. He has mentioned that the books on tape are helpful for him.
Q. Anything else?
A. No.
ATTORNEY CLARK:
No other questions.
HEARING OFFICER:
Ms. Blazi, Ms. Husic, the attorney for the family, will have some questions for you now on Cross Examination.
CROSS EXAMINATION
BY ATTORNEY HUSIC:

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Q. Ms. Blazi, I wanted to ask you a follow-up regarding a question you were asked about a prior evaluation that you read and reviewed on George. Can you say specifically what evaluations that you reviewed?
A. I read Gayle Goepfert's speech and language evaluation, Doctor Grisolano, Andy Klein. I know there's somebody else I'm forgetting. I'd have to look. I know I overlooked somebody.
Q. Did you look back at George's prior IEPs?
A. Yes, I did.
Q. And you did see at one point that he was receiving speech therapy for articulation purposes? Did you see that?
A. Yes.
Q If you look at P-37, page six, what I'm wondering, if you wrote the section entitled Updated Speech and Language Testing. It's part of page six and page seven.
A. Yes.
Q. You use the descriptor of the word updated, and I'm wondering what are you updating from?
A. I usually do that when a child has had speech and language in the past.
Q. Were you aware that the speech and language

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was discontinued in 2007?
A. Yes.
Q. And did you see also the IEP that was part of the 2006/2007 school year that Hershey did an evaluation that identified George has having expressive and receptive deficits?
A. Was this from Hershey Medical Center?
Q. Yes.
A. I'm not sure. I know I did a file review, a record review, and I looked at particular past speech and language information. I don't recall anything in particular about the Med Center evaluation.
Q. Did you read the report from the audiologist that was performed?
A. Yes. From Pinnacle Health, yes.
Q. And they also recommended that George would have speech/language therapy for auditory processing?
A. Yes.
Q. When those reports came in, would you agree with me that therapy should have been started for George at that time?
A. Yes, based — I can't speak for the Medical Center evaluation, because I don't recall it, but

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with the Pinnacle Health audiologist, yes, I would agree with that.
Q. So if the District would have followed that report, that evaluation, based upon your answer, should have started during the 2006/2007 IEP school year?
A. Yes.
Q. I'm looking at your third-quarter progress report. It's not in the records, but it's dated March the 29th of 2010. And you indicated that in goal one George met that particular goal. I assume as of the date of the third-quarter report, 3/29/10?
A. Yes.
Q. Or was it before that?
A. That he had met it?
Q. Yes.
A. I usually --- how I chart it is that he has to maintain it over three consecutive data points. So it was in the third quarter.
Q. Okay. Now, as of 3/29/10, looking ahead a month, roughly a month to today's date, since he met the goal on 3/29 of '10, what have you been working on for a month?
A. We've been mostly focusing on the second goal,

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goal number two which is in the IEP. We have been still working on this goal until we have an IEP review. And I'm looking at making sure that no prompting is involved there, just to get an idea of when we do meet if raising the criteria is adequate for George.
Q. How did you notify George's IEP team that the goal was met?
A. I talked with Ms. Sawyer and also Doctor Sheats, and I let them know that George had achieved his goal. And also George's case manager --- I also informed Mrs. Peiffer that George had --- I notified her when he was getting close to achieving the goal. And I said that we would sit down and have an IEP review to see where we want to go from here.
Q. And there has been no IEP meeting set yet, has there?
A. No.
Q. So in the meantime, until one is done, you're only working on goal number two?
A. Particularly data for goal number two. I continue to take data --- I still probe the first goal, but I don't actually report the progress.
Q. On your testing you indicated --- still at

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P-37, page six and seven. You indicated it was your opinion that George's test scores fall in the moderate range of impairment. And I'm wondering what standard deviation are you using? Are you using one standard deviation or one-and-a-half?
A. Well, it depends. There's no set that we use. We usually --- and it's not written anywhere, but usually we use one-and-a-half to two standard deviations for someone to qualify for services.
Q. One-and-a-half to two standard deviations. What do the authors recommend for the Word Test II: Adolescent?
A. As far as just going by what the author says in terms of a number, I'm not sure because I don't tend to go by just a number. I tend to get input in how it transfers into the real word, these skills into the real word.
Q. On the Word Test II: Adolescent, you have a total test score of 72. What would be the range to put George in a severe range?
A. I would say probably a six to five. I would also take into consideration whether most of the subtests there were --- you know, one was within the average range, and then he totally bombed another one, which would bring his score down. So

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I factor all of those and not just the total test score.
Q. On the Test of Problem Solving that you received a total test score of 67, ---
A. Yes.
Q. --- that's pretty close to a standard-and-a-half deviation. Would you consider him still to be moderate or would he be close to having severe deficits?
A. I would still say moderate. I think I would use the same thing as 65 before I classified it as severe.
Q. On the first subtest that you administered, Making Inferences, would you consider the percentile rank of zero to be a severe deficiency?
A. Yes, I would.
Q. You indicated that you meet with George in the library at 7:15 to 7:45. That's before school starts?
A. Yes.
Q. Why do you meet at that time?
A. At the IEP meeting, I know when it was brought up, recommended speech therapy, Mrs. Peiffer said that she felt that she didn't want George to miss any more school time.

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Q. And why couldn't you get that in during the regular school day?
A. I could and that was offered, but it was not --- it was just agreed upon that it would be better for George if he's not missing anything during the regular school day to meet me prior to school.
Q. The Standards classes interfered with your ability to meet with George during ---
ATTORNEY CLARK:
Objection.
BY ATTORNEY HUSIC:
Q. --- regular school time?
ATTORNEY CLARK:
Objection to the question. It calls for a conclusion that she's not qualified to render.
ATTORNEY HUSIC:
She was at the IEP meetings, and there was discussion at the IEP meetings regarding Standards classes and George's ability for his schedule to also fit in a speech therapy.
HEARING OFFICER:
Well, you know, I see both the objection and the question having merit to a

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certain degree, so I'll sustain the objection to the extent that it asks about a specific class, because the witness testified about classes. So I think to the question, as asked, I'll sustain the objection. I don't think it's an unwarranted line of questioning. I just think that it does presuppose that a specific about the conversation she testified that at least to this point she hasn't talked about. So let's have it this way. Do you recall conversations about scheduling your sessions at the IEP meeting?
A. Yes.
HEARING OFFICER:
And what were the specific details, as you recall them, about scheduling your sessions?
A. There was limited time to work with in the school day mostly because he went to vo-tech and he would be gone for a good portion of the day.
HEARING OFFICER:
So there was conversation about scheduling them in the afternoon?
A. We did not get into specifics as far as what time it would be other than we --- the team felt, and I remember that Mrs. Peiffer said it might be

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better if we did it not during the school day so that he's not pulled out from something else.
HEARING OFFICER:
Why is it that you say vo-tech? Because vo-tech is an afternoon program.
A. Uh-huh (yes).
HEARING OFFICER:
So why would you focus on vo-tech if the timing during the day was unimportant?
A. Only because then we only have half the day to work with. So I'm not sure. We didn't really get into specifics on time. I know I had offered to do it after school at one point.
HEARING OFFICER:
And why was that not taken up?
A. At the time, George was in football and there were other extracurricular things. The schedule didn't jive that way.
HEARING OFFICER:
Aside from football?
A. I don't remember. I just know that I'm normally at the elementary school, and so my day is extended. So I said that in my --- from my perspective, in my schedule, I can --- I'm already here at the end of his day, can we do it then, and

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that that wasn't the best situation.
HEARING OFFICER:
Okay. I think that coves kind of the conversation about scheduling. Did you have any other follow-up questions based upon the scheduling discussion?
BY ATTORNEY HUSIC:
Q. Would you be able to deliver speech services to George after school?
A. Yes.
Q. Has that been something that you looked into?
A. Not yet. I know that I --- from a contracting standpoint, I offer that, and then it's certainly an option for me if it is for the Parents, and then I check with the school to see if it's okay for the student to stay after.
Q. If George were taking Standards after school, which he currently is, that would preclude you from delivering speech services to him at that time; correct?
ATTORNEY CLARK:
Objection. I don't know that she's qualified to answer that question. It's also a hypothetical. It's base --- it has a lot of permutations that this witness really can't

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testify to.
ATTORNEY HUSIC:
Well, it's not a hypothetical. He is taking Standards classes after school. And as a matter of fact, he's taking two English classes, two math classes, one being Standards Math, Standards English, Wilson English. And as a result of that, George is having to face work after school and also having to fit into his schedule some of his IEP before school starts. So I think she is aware of his schedule and can testify to that response.
HEARING OFFICER:
Well, ---.
ATTORNEY CLARK:
But the question is presupposing that the speech and language will be substituted for something else, and that's the part that's outside her area of expertise.
HEARING OFFICER:
Well, actually, I think it's been asked and answered because the witness testified that, as I heard it, the offer of after-school services was proposed at the IEP meeting and that, as I recall the response, football practice and

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other extracurricular activities interfered with that option. When I asked about extracurricular activities, she was unaware of any others, but that the --- as I recall the answer, the after-school option was unavailable due to school-based scheduling concerns. So do you know what those other concerns were in after-school scheduling aside from football?
A. No.
HEARING OFFICER:
At the IEP meeting, was it ever shared why, aside from football, George was unavailable — at the end of the season, why he'd be unavailable?
A. Well, I knew he was going to be taking math classes.
HEARING OFFICER:
And that that was the reason that he would be unavailable after school?
A. Well, no, because we didn't continue the topic of let's do it after school at that point. It was, well, I can do it in the morning, and then that was agreeable to everybody, so we just went that route.
HEARING OFFICER:

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So I think --- again, it's one of those areas where the question is allowable, but as asked, it presupposes information, and that's where it's a difficult objection to deal with, because I think the question and the line of questioning is appropriate. But as asked, I think the objection is appropriate, because it's asking something that the witness doesn't have precise knowledge about. But I think the question has actually been asked and answered now in terms of the after-school availability for a speech and language program.
BY ATTORNEY HUSIC:
Q. Do you recall that the Parents indicated that George's lunch could be given up in order for him to have speech services?
A. I don't recall that.
Q. Okay. On goal number two you talked about --- that's a processing goal and referenced the ninth-grade reading level that you are testing George on. What text are you using for that?
A. I do a variety of --- I do pull in some of the information that I'm getting from the teachers. And if it's not clear or if I don't have a yes or no whether it's in ninth grade, I don't

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particularly take data on that time. But I'm also using the Bridge of Vocabulary, which has different skills broken down into grade level.
Q. I'm sorry, what's it called again?
A. The Bridge of Vocabulary.
Q. And is that the name of a book?
A. It is as program, yes.
Q. And what type of program is that?
A. It's a language-based program and it has --- well, they're all vocabulary-type lessons, and it has --- it starts at kindergarten and it goes up until twelfth grade.
Q. And based upon that test, you were pulling out passages that are identified by the author as ninth grade —
A. Yes.
Q. — passages? When you were asked questions about Earobics, is it your recommendation that George should discontinue Earobics?
A. No, that's not my recommendation.
Q. Are you skeptical of its benefit for George?
A. No.
Q. Do you still think it's appropriate for George to use Earobics?
A. He's making great progress, so yeah, I would

say I think it is.
Q. Earobics was to be incorporated as an IEP goal. Do you recall that?
A. Yes.
Q. And with the last IEP that was done in August, which was a revised IEP, that was never included as an IEP goal. Do you know why that was not incorporated?
A. Yes. I recall explaining at the IEP meeting that my given schedule --- I am only in the District two days a week, so we had options whether George could see the other speech therapist who is at the high school five days a week either for that third session or he could stay there for all three sessions. Or the other option was he could still see me for the two sessions of therapy and that the other one would be a home-based third session type of thing but at home that I would monitor his progress.
Q. The progress on his Earobics program is not reported in your progress reports that come out quarterly. How does the Parent and, for instance, in this case, the Hearing Officer, to know how George is actually progressing on the Earobics program?

A. Well, in George's IEP, one of the SDIs, I believe, is how to again monitor his own goals. We do that monthly. So when I have George --- when I sit down and have George do that, I do have a chart that I do send home to Mrs. Peiffer. And we color --- since there's six different areas and so many different levels of progress, we --- I have George chart that, and then that goes home monthly.
Q. You were asked a question about George multitasking while doing Earobics. And it struck me that I wondered about the relevance of George multitasking while he's supposed to be concentrating on Earobics. Do you tell him to get back on task?
A. Yes.
Q. How often does he do that?
A. Not often, because after that first time, I made it clear that we are focusing on Earobics and his texting time is over.
Q. I wanted to just back up a second and turn your attention to P-39, page 35. What I'm directing your attention to is the note on the side of the page. The goal is to be added by 10/29/09. As far as you know, the team did not

reconvene; is that correct?
A. As far as I know, yes.
Q. So that goal was never added?
A. Correct.
(Parents' Exhibit 38 marked for identification.)
BY ATTORNEY HUSIC:
Q. If you turn to P-38, this is the IEP dated April 29th of '09. For the record, you did attend this IEP meeting; would that be correct?
A. Yes.
Q. I want to draw your attention to page 19. At the very bottom of page 19 the SDI addresses speech and language therapy, two 30-minute sessions per six-day cycle.
A. Uh-huh (yes).
Q. And you see the start date as 5/8/09.
A. Uh-huh (yes).
Q. During the '08/'09 school year you didn't provide any speech services to George, did you?
A. I did not.
Q. If you look at page 20, again, toward the bottom of the page, under related services, and if you go across for the projected start date, it was May 8th of '09, again, you did not provide any

services; correct?
A. Correct.
Q. And on page 23, again, speech/language services, 5/8 of '09, ---?
ATTORNEY CLARK:
Can I have an offer of proof?
HEARING OFFICER:
Yes. What would be the nature of the line of questioning?
ATTORNEY HUSIC:
Well, if the IEP --- George's IEP was due in April of '09 and it would have covered the IEP for the remainder of that school year, for the '09 and right into the 2010 school, my point is that the speech and language services were indicated that they would begin and were stated that they would begin during the remainder of the '08/'09 school year, and this witness testified that they were not. Basically that would lay claim to a compensatory education claim that the District did not provide IEP services as indicated in the IEP.
HEARING OFFICER:
Well, perhaps we can take care of it with a stipulation. Will the District stipulate

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that it was the August 25th IEP to be implemented beginning August 26th, that that IEP governed the terms under which this witness began to provide services?

ATTORNEY CLARK:
That's what I understood the case to be.

HEARING OFFICER:
Will the District stipulate to that?

ATTORNEY CLARK:
Yes.

HEARING OFFICER:
Okay. If that's the case ---.

ATTORNEY HUSIC:
I'm going to raise an objection to that because this is an IEP, like in previous years, that covered a span of years. And some of the goals would have been worked on and then some were not. At this point I think it's very clear that it was not an oversight because in some of the SDIs, for instance, the Wilson program, that was very clear, that it was stated it would not begin until August, as was the Cumberland --- the vo-tech program.

HEARING OFFICER:

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Let me be clear. I meant only with this witness and the provision of speech and language services. So the stipulation would be, in terms of the line of questioning ---.

ATTORNEY CLARK:
But the question --- I still have a problem with that question because the preceding IEP was dated October 1, ---

HEARING OFFICER:
Well, ---.

ATTORNEY CLARK:
--- which means that those services would run through October 1, 2009.

HEARING OFFICER:
Well, let me say this. Let me be clear that there are lots of disagreements between the parties about what was offered, what was asked for, whether or not it was granted. I'm not getting into the global FAPE question. In terms of the line of questioning with this witness about the IEP dates, my only question --- and this is really to speed things along, can we stipulate that in terms of the provision of speech and language services that the date on which those services would have began under an approved IEP

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were August 26th, 2009, the provision of speech and language services, whether or not there was --- I'm not talking about the appropriateness. I'm talking about --- and this is from the line of questioning, the date on which the District was providing that, from their perspective. That's the stipulation.

ATTORNEY CLARK:
And I would add to that, subject to a signed NOREP, because there wasn't a signed NOREP prior to that.

HEARING OFFICER:
Oh. We can go over the date of the signed NOREP, but --- I mean, I'm just --- the offer of proof --- the line of questioning was on this date, were these services to be provided. And as far as this witness is concerned, they're speech and language services. So the objection comes in in the offer of proof. And my point on the stipulation is simply to say, can we establish a date on which an IEP was in place for the provision of speech and language services, whether they're appropriate or not? I'm not talking about their appropriateness. I'm just talking about were you delivering speech and language as of X

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date. If we can stipulate to that, then we can move on from there.

ATTORNEY HUSIC:
Well, the Parent is not disputing the appropriateness of the goals and objectives. You know, I can stipulate to that.

HEARING OFFICER:
On speech and language?

ATTORNEY HUSIC:
Speech and language for this school year. You know, our issue, of course, is that the speech services regarding expressive perceptive speech should have been appropriately evaluated and implemented starting during the course of the IEP governing the '06/'07 school year, when the District was put on notice that George ---.

HEARING OFFICER:
I've got all that. I've got all that. I know what Parents' claim is and I know what the District's position is, at least in terms of when it was providing services and when it wasn't. Okay. Then so much for the ease of my stipulation. Offer of proof is accepted. Any objection is overruled. Continue with the line of questioning, please.

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BY ATTORNEY HUSIC:
Q. You had testified on Direct that you considered George no longer to be moderate but now has improved up to the level of mildly impaired. Do you remember that testimony?
A. Yes, I do.
Q. You didn't do any retesting, though, to establish whether he has improved, have you?
A. Not standard assessment, no, I have not.
Q. Is that a subjective determination you're making then?
A. Yes.
ATTORNEY HUSIC:
I don't have any further questions. Thank you.
HEARING OFFICER:
Do you have any questions on Redirect?
ATTORNEY CLARK:
I do.
REDIRECT EXAMINATION
BY ATTORNEY CLARK:
Q. I want to ask a few questions about George's ability and his functional level.
ATTORNEY HUSIC:

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I'd raise an objection because that goes beyond the scope of Cross.
ATTORNEY CLARK:
No. Well, if I may respond, it doesn't.
HEARING OFFICER:
Well, let me hear the question first and then we'll see. What was the question?
BY ATTORNEY CLARK:
Q. Describe the extent to which you see George --- you assess George, as capable of, first of all, answering questions that you put to him?
HEARING OFFICER:
Is there an objection to that question?
ATTORNEY HUSIC:
Yes, that is beyond the scope of Cross Examination. Just reviewing my questions here, and I did not address any questions regarding George's ability or extent that he can answer questions.
HEARING OFFICER:
What is your response to the objection?
ATTORNEY CLARK:

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There were questions on Cross Examination that attempted to suggest that George's testing level was approaching the severely impaired range. I want to ask this witness some questions about functional performance and how that relates to George and whether he would be actually in the severe range.
ATTORNEY HUSIC:
Well, specifically, I would still renew my objection because, specifically, I asked about standardized testing that the witness performed, and it was addressed regarding the level of standard deviation that this witness uses versus the authors for the test. If anything, I might have suggested that this witness' use of standard deviations is probably more extreme than the authors' use.
HEARING OFFICER:
I'm going to sustain the objection because all the testimony in terms of the results were geared to the test results obtained by the witness and what the implications of those test results were for programming. It opens up a new line of questioning to talk about her assessment of functional abilities. I don't think that was

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brought up on Cross, nor was it brought up on Direct, you know. The witness answered questions on Direct and Cross about the results she got and what those results indicated to her for the student's programming. So I do think it opens up a new line of questioning, so I'll sustain the objection.
BY ATTORNEY CLARK:
Q. You were asked questions on Cross Examination about whether George's test scores were approaching the severely-impaired range. Do you recall those questions?
A. I do.
Q. And you concluded that he was not in the severely-impaired range?
A. Correct.
Q. Do you have any observations to support your conclusion?
ATTORNEY HUSIC:
I believe that was already asked and answered on --- I didn't take notes on that, but I believe that the witness answered that it was her subjective opinion.
HEARING OFFICER:
Well, again, I'm going to sustain the

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objection because on Cross the question was limited to specific analysis of the test scores, and the witness answered those questions in terms of where she saw scores lying and what that reflected to her. So because it is Redirect I think I'll sustain the objection.
BY ATTORNEY CLARK:
Q. You testified that you made a subjective determination that George is mildly impaired?
A. Yes.
Q. What are the observations that led you to draw that subjective determination?
A. The main reasoning is his quick progress that he's made. Someone with a language processing disorder will have good days, bad days. They will fluctuate in their progress. It won't always rise and then stay at that point. But George has come so far so fast, and I see him using those skills every time we meet.
Q. What skills do you see him using?
A. I see him using the strategies that have been taught, the strategies for visualizing and verbalizing. So if something is said to him, repeat it to himself, kind of like a mental rehearsal kind of thing, asking for things to be

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repeated versus saying I didn't hear you. A lot of times with processing they might look like they didn't hear. So he is differentiating whether he can hear, whether he didn't hear, whether he didn't understand. Maybe he wants --- he'll ask for it to be worded a different way. So he's using the strategies that we teach for language processing.
Q. If he were severely impaired, would he still be performing at that level?
A. No.
Q. With regard to the delivery of services to George, you discussed several alternatives for delivery of a period of instruction on the Earobics program?
A. Yes.
Q. Was that agreed by the parties in the IEP meeting?
ATTORNEY HUSIC:
I'm going to raise an objection. I did --- Cross Exam did not cover any issues regarding to the Earobics program other than progress reporting.
HEARING OFFICER:
Your response?

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ATTORNEY CLARK:
There was a question put to this witness about delivery of three periods. She explained that an option was that George would see a third --- a second speech and language instructor for a third period per week or could see that person for all three periods or see Ms. Blazi and then use --- engage in self-monitoring when it would be required.
HEARING OFFICER:
Right.
ATTORNEY CLARK:
And I want to confirm through this witness whether that was actually agreed at the IEP meeting.
HEARING OFFICER:
Well, I think she answered that question on Cross.
ATTORNEY CLARK:
She said they were the options.
HEARING OFFICER:
Well, she said they were the options. And then on further questioning, when we were referring to the page in the IEP, she said that a meeting was not held.

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ATTORNEY CLARK:
That was a different point.
HEARING OFFICER:
That's right. That's right. But it goes to the same question. It goes to the question you're asking, so it's all --- in my mind it's all relevant testimony on the same point. Let me ask this. Were you expecting a follow-up meeting regarding additional sessions of Earobics, you?
A. No. I understood it to be that everybody was in agreement that the home version would work because that would be done at home and that I could monitor it.
ATTORNEY CLARK:
That answers my question. I have no more questions.
HEARING OFFICER:
Okay. Any questions on Recross, Ms. Husic?
ATTORNEY HUSIC:
Just one, very brief.
RECROSS EXAMINATION
BY ATTORNEY HUSIC:
Q. This is the first year you provided speech

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services to George; correct?
A. Correct.
Q. So based upon you're not even completed with the year, you really don't know if things or the therapy or the progress he's making will really last with him, do you?
A. I do not have any proof as of this date yet.
ATTORNEY HUSIC:
Thank you. I don't have anything further.
ATTORNEY CLARK:
I have one more.
REDIRECT EXAMINATION
BY ATTORNEY CLARK:
Q. Do you have any proof that ---?
HEARING OFFICER:
Well, wait. No, no, no, no. There's no such thing as Re-Redirect. No, no, no. Let me see if I have any questions for you, Ms. Blazi.
HEARING OFFICER REVIEWS NOTES
HEARING OFFICER:
And it doesn't appear as if I do, so I thank you for your participation. You are excused.
A. Thank you.

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HEARING OFFICER:
Let's go off the record.
OFF RECORD DISCUSSION
SHORT BREAK TAKEN
HEARING OFFICER:
Let's go on the record. We're on the record at approximately ten minutes after 11:00 after a break and ready for the presentation of the District's next witness. Who's in the witness chair?
ATTORNEY CLARK:
The next witness is Holly Sawyer.
HEARING OFFICER:
Okay. Thank you. Ms. Sawyer, the court reporter will swear you in at this time.

HOLLY SAWYER, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

HEARING OFFICER:
And you, Ms. Sawyer, I know have been here for every session, in attendance sitting at counsel table with Mr. Clark, so I know you've heard my instructions to multiple witnesses. I won't repeat those, including the instructions I

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gave to Ms. Blazi even this morning. Just bear them in mind as you testify here. And if I or the attorneys or the court reporter need to give you instructions, we'll do so. So Mr. Clark will have questions for you first.
DIRECT EXAMINATION
BY ATTORNEY CLARK:
Q. Would you state your name for the record, please?
A. Holly Sawyer, S-A-W-Y-E-R.
Q. And your position?
A. Director of Special Education at Susquenita School District.
Q. How long have you been in that position?
A. This is my third year, so I started July 1 of 2007.
Q. I want you to explain to the Hearing Officer your educational history --- your educational background, your degrees.
A. I received a Bachelor's degree in special education from Lawrenceville University. I have a Master's degree in special education from Shippensburg University. I received my Supervisory Certificate from Shippensburg University. I am currently enrolled in

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Shippensburg University's Superintendent's Letter program. And I am also enrolled in a Widener doctoral program in school systems leadership.
Q. How many credits do you have towards your doctorate?
A. I have, I do believe, 30. I am completed with my coursework in May, then I'll be moving into my dissertation.
Q. And that degree will lead to a what?
A. To an educational doctorate.
Q. An Ed.D. or a Ph.D.?
A. Ed.D.
Q. Your Supervisory Certificate is in what area?
A. Special education.
Q. And do you have an Instructional Certificate in any area?
A. Yes. It's in special education. And I also have math, grades --- middle-level math, so it's grades seven through nine.
Q. Now, explain your employment history --- or describe your employment history.
A. I started at Susquenita School District in March of 2001 as a special education teacher, and I have been here --- and I changed roles, as I stated, in July 1 of 2007 as the Director of

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Special Education.
Q. Do you have any teaching experience prior to coming to Susquenita?
A. No, just student teaching and those type of things.
Q. How long have you known George?
A. I have known George since --- I think I met him in sixth grade, and that was more on an informal basis.
Q. Were you teaching in the middle school at that time?
A. Yes.
Q. And what was your contact with George in that period of time?
A. Just to say hi to him in the hall, just as a middle-school student, because normally, you know, a lot of students, so it's a very informal, you know, hi type of thing.
Q. Did you have George as a student in your class?
A. No.
Q. Did you have any contact with George in seventh grade?
A. Yes. Again, on an informal basis. But more formally, I was his case manager's mentor. So his

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case manager at that time, Sheila Zelinski (phonetic), was my mentee, if that makes sense. She was a first-year teacher.
Q. So you were mentoring Ms. Zelinski?
A. Yes.
Q. And that was one of George's eighth-grade teachers --- or his eighth-grade case manager?
A. Seventh-grade case manager.
Q. Seventh-grade case manager at this time. What involvement did you have with in George in eighth grade?
A. I was the Director of Special Education at that time, so that was my involvement. And again, I continuously, through this time --- I talked to George on an informal basis, in the hallway, in the classroom.
Q. Did you ever observe George in a classroom?
A. Yes.
Q. How frequently?
A. I wouldn't say it's set up that I go in and observe George. Sometimes I observe the teachers and he's in there. So that's happened since seventh grade. So it's more informal. I don't set out to observe him in class.
Q. But you were on George's IEP team at some

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point in time?
A. Starting in grade eight.
Q. When George was in grade eight?
A. Yes.
Q. And have you been on his IEP team continuously since then?
A. Yes.
(Parents' Exhibit 23 marked for identification.)
BY ATTORNEY CLARK:
Q. I want you to turn your attention to P-23. Did you take part in this IEP?
A. Yes, I did.
Q. And your signature is on page two of that exhibit as Director of Special Education?
A. Yes, it is.
Q. Do you recall that IEP meeting?
A. Yes, I do.
Q. I want to ask you some questions about --- I want to start with the reading goal. What was George's reading goal at that point in time?
A. On page seven I said given a passage at the fifth-grade level, George can orally read at a range of 120 words correct per minute with 95 percent accuracy.

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Q. Is that an appropriate goal for George?
A. Yes.
Q. Why?
A. The IEP team agreed that it was an appropriate goal, and also it was something that would be obtainable within a year's time ---
Q. What do you mean ---?
A. --- or that was what the IEP team felt would be reasonable for George to achieve.
Q. Now, you were present for the testimony of Mr. Klein?
A. Yes.
Q. And you heard his criticism about George having a fifth-grade goal when he was in eighth grade?
A. Correct.
Q. Do you agree with his assessment that that's an inappropriate goal for George?
A. I would have to disagree.
Q. Why?
A. Based on George's progress, based on the information provided from his special education teachers that were also members of the team, this was an appropriate goal, as agreed by the IEP team.

Q. What benefit would George have gotten if his reading range --- the goal for his reading range had been higher, higher than 120 words per minute?
A. He would not be able to obtain that, could potentially be frustrated if we tried to move him quickly. So this was based on previous progress on previous IEPs.
Q. Was there any disagreement from Mrs. Peiffer, the family, that this was an inappropriate goal for George?
A. No.
Q. You were present for the discussion about an SDI for George in eighth grade, this IEP?
A. Yes.
Q. What was the focus of the SDI for George in the eighth grade?
A. To make sure that we were doing accommodations and modifications to meet his needs in the educational setting, to make sure that he makes progress on his goals.
Q. Did you see evidence that that was occurring?
A. Yes.
Q. Now, you heard the testimony of Mr. Klein?
A. Yes.
Q. You saw his report?

A. Yes.
Q. And on page 16 of this report I'll read you a sentence.
HEARING OFFICER:
What exhibit are you in?
ATTORNEY CLARK:
P-2. Sorry.
HEARING OFFICER:
Page what?
ATTORNEY CLARK:
Page 16.
(Parents' Exhibit Two marked for identification.)
BY ATTORNEY CLARK:
Q. George's eighth-grade IEP developed on October 15th, 2007 is notably devoid of a transition plan, even though George was 14 years old at the time that this was written, Pennsylvania clarified the discrepancy with IDEA. Do you agree or disagree with that sentence?
A. I would disagree. Under the IEP that we were just on, which is on page three, it does have transition services, and it's at level because he just turned 14. We're aware --- the IEP team specifically is aware that transition planning is

going to occur, and more specifically in the future, and especially more in-depth as he gets to age 16.
Q. When this document was created on October 5th, 2007, what were you required to do for George at that time, as a 14 year old?
A. Indicate that transition services were available.
Q. Was a transition plan required to be put in place for George at that moment in time?
A. No.
Q. Was there a discussion in this IEP about providing assistive technology for George?
A. Not that I recall.
Q. Were you present for a discussion about using the FM modulator for George?
A. Yes.
Q. What occurred in that discussion?
A. In this discussion Nicole Cutman ---.
ATTORNEY HUSIC:
Hold on. I'm going to raise an objection. First of all, we --- this witness has not established the foundation of where the discussion took place. Nicole Cutman was an individual that was X'd out as testifying because

she was not properly disclosed, and this appears to be a way to get in a witness' testimony which is hearsay. I certainly cannot cross examine the witness. And you know, if we have a specific discussion regarding an IEP meeting where this was discussed, I'd like to see a reference as an offer of proof.
HEARING OFFICER:
Well, first, I heard the question in terms of at the IEP meeting; is that correct?
ATTORNEY CLARK:
That was the question.
HEARING OFFICER:
Okay. So I think that it isn't within the context of the meeting, at least as asked. So in that regard I will --- I'll overrule the objection. She can testify to what she recalls the conversations were at the IEP meeting about certain matters. You can answer the question.
A. We did discuss the FM system. I do remember Mrs. Peiffer specifically stating that in the previous years he had used an FM system. It is not in the SDIs. I don't remember saying it was supposed to be in the SDIs and it was not. The

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other assistive technology ---
BRIEF INTERRUPTION
A. --- was the issue of a computer at home.
BY ATTORNEY CLARK:
Q. Was the FM modulator discussed at this IEP meeting?
A. Yes.
Q. And what was the outcome of the discussion?
A. We did not include it in the IEP.
Q. And why?
A. Because the IEP team felt it was not appropriate.
Q. And why was it not appropriate?
A. From my recollection of the IEP team meeting, because George did not use it.
Q. And why did George not use it?
A. George left it in his locker. George would have to be given reminders to use it. When his teachers talked about it, they said they would remind him to go to his locker to get it. I know on one occasion the teacher said she would have to go over and ensure that it was on because he wouldn't turn it on. So it was left in his locker more than it was used.
Q. With regard to an extended school year

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program, what was the discussion in this IEP meeting about providing George with an extended school year program?
A. Specifically that George does not routinely lose skills after breaks in educational programming, which would be the regression or the recoupment of the skills that he has already learned. And ESY is based on progress on his goals. That progress leads to a discussion about ESY services.
Q. But there are other factors that are considered?
A. Yes. There's other factors, yes.
Q. Was there a determination of the seven --- what was the conclusion as far as the seven factors that were concerned with George?
A. That he did not qualify for extended school year services.
Q. What evidence did the team consider in reaching that conclusion?
A. We looked at progress reports from the previous IEP and his progress over an extended break, such as Christmas, also summer.
Q. What did progress indicate?
A. That he made continual progress, that he did

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not have an issue with regression or recoupment of skills that were lost over an extended break in educational services.
Q. The suggestion if not the argument that was made in the presentation of the Parent's case that George's scores on the Gray Oral Reading Test were indicative of regression, do you agree or disagree with such a characterization?
ATTORNEY HUSIC:
I'm sorry. Could you repeat that? Indicative of?
ATTORNEY CLARK:
Of regression.
A. Specifically on the Gray Oral Reading Test, no. He would have been given two different read forms of the GORT. It has a Form A and Form B. And those scores --- it's a one-time score on a diagnostic test. So we look at progress on goals more than we look at the results on a GORT. It's just one piece of the information that we use in order to program educationally a student.
BY ATTORNEY CLARK:
Q. The GORT is administered over how many days?
A. One.
Q. Per year?

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A. Yes.
Q. Did Mrs. Peiffer present any evidence to the team that George's regression or lack of retention warranted an extended school year program?
ATTORNEY HUSIC:
I'm going to raise an objection. The onus is not on the Parent to present evidence to the IEP team to indicate regression or a recoupment.
ATTORNEY CLARK:
I'll rephrase the question.
BY ATTORNEY CLARK:
Q. Did anybody in the IEP team present evidence that George had regressed or needed additional time for recoupment of materials learned?
A. No.
Q. With regard to occupational therapy, what was the standard that the team was operating to determine whether or not George needed occupational therapy?
A. That standard is based on handwriting skills and whether the handwriting is legible or not.
Q. What was the conclusion?
A. That his handwriting was legible.
Q. And that was determined by whom?

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A. The IEP team.
Q. And who was it legible to?
A. His teachers.
Q. You heard the testimony from Mrs. Peiffer about the Corrective Reading; yes?
A. Yes.
Q. What is Corrective Reading?
A. Corrective Reading is a reading program from SRA, and it's a type of program that takes into account decoding and also comprehension. But it's a program that is followed strictly and has a manual that says the teacher says this, the teacher does this, the student says this, if the student doesn't say this you go back. So it's a program. It's a reading company program.
Q. How are the results of Corrective Reading reported back to Mrs. Peiffer?
A. They are reported back normally through fluency checks. We take into account the skills that they learn on the Corrective Reading and how they are applied across curriculum. So we look at the fluency as measured on AIMSweb probes, which are just paragraph reading, and we measure that within a minute, how many words they can read accurately in a minute.

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Q. Was Corrective Reading made a part of George's IEP?
A. Yes.
Q. And where is that reflected in this exhibit?
A. I don't see it specifically stated in the IEP.
Q. Was it specifically discussed at the IEP meeting?
A. I don't personally recall.
ATTORNEY HUSIC:
I'm going to raise an objection. This witness just testified about how the results were reported back and how the probes were used insofar as determining results of the Corrective Reading. I would just like to have it noted for the record after she indicated that it was a part of it now cannot recall or find it in the IEP itself.
HEARING OFFICER:
Well, to the extent that — the testimony of the witness will stand as given. I mean, there was testimony about recollection and then taking us to the IEP. So they're, in a sense, two separate processes.
ATTORNEY HUSIC:
Well, that's fine.

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HEARING OFFICER:
Yes. But I mean --- so nothing will be stricken from the record, ---
ATTORNEY HUSIC:
That's fine.
HEARING OFFICER:
--- and the record will speak for itself.
BY ATTORNEY CLARK:
Q. Now, at the time the eighth-grade IEP was written for George, was George identified as learning disabled in math?
A. No.
Q. Was there a discussion at the IEP meeting that he should be identified as learning disabled in math?
A. No.
HEARING OFFICER:
What was your answer? I'm sorry.
A. No.
BY ATTORNEY CLARK:
Q. Through eighth grade, were you familiar with any allegations of behavioral issues that affected George in school?
A. No.

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Q. Through eighth grade, were you aware of any issues of potential or suspected ADHD for George?
A. No.
Q. Did you participate in George's ninth-grade program?
A. Yes.
(Parents' Exhibit 31 marked for identification.)
BY ATTORNEY CLARK:
Q. I need you to turn to Exhibit P-31, I believe it is. Is your signature on page two of this Exhibit P-31?
A. Yes, it is.
Q. And you're crossed out there as the local ed agency rep?
A. Yes.
Q. And this meeting took place when?
A. Thursday, October 2nd, 2008.
Q. What can you tell us about George's reading goal in this IEP?
A. Thirteen (13). He was given a reading passage at the eighth-grade level, read 100 words in one minute three consecutive times. The timed reading words five lines.
Q. Now, why is that goal different from the goal

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in the prior year?
A. It is based on information from the previous year. It's based on his progress towards his goal.
Q. Why was George's goal not 120 words per minute?
A. Because it was determined at the IEP team meeting that this goal would be appropriate and he would be able to accomplish that within a year's time.
Q. I want to turn your attention to page five of the exhibit. Under the heading present levels of academic achievement and functional performance ---
A. Yes.
Q. --- there is a table that's pasted at the bottom of that page. Do you see that?
A. Yes.
Q. What is it and why is it there?
A. It is a copy and pasted page from our power School and it is shown --- it gives the grade as of a certain date and time so that we can discuss those grades at the IEP meeting and his present levels.
Q. And did the class that George was taking at

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that point in time come to change?
A. Yes.
Q. Why?
A. Because it was determined that there were parts of the curriculum that needed to be in his schedule that were excluded.
Q. And what were those parts that were required to be in his schedule?
A. Standards English and Standards Math.
Q. What is Standards English and Standards Math?
A. They are remedial courses to address the reading and math needs of students that are scoring either basic or below basic on the PSSAs.
Q. And what qualifies a student to take Standards Math or Standards English?
A. They would have to score below proficient on the previous year's PSSAs.
Q. Did that include George?
A. Yes.
Q. When was it discovered then George should be taking the Standards English and Standards Math?
A. I don't remember the specific date, but I do know it was after this IEP meeting. I do believe it was in October sometime.
Q. And how was this communicated to George's

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family?
A. All parents got a letter stating that this was --- this scheduling change was going to occur, the classes needed to be added to his schedule. We offered an open meeting with Doctor Jones, the high school principal, Doctor Sheats, the superintendent, and myself in attendance at that meeting so the Parents could discuss any issues. Also, George's case manager, Matthew Bingaman, telephoned Mrs. Peiffer.
Q. Now, the meeting with Doctor Sheats, Doctor Jones, did that occur --- what time of day did that occur?
A. That was in the evening.
Q. Did you attend the meeting?
A. Yes.
Q. Were the Peiffers in attendance?
A. No.
Q. Was there a meeting that occurred with the Peiffers ---
A. Yes.
Q. --- in regard to the Standards English and Standards Math?
A. Yes.
Q. And when did that take place?

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A. Again, I don't remember the exact date, but I think it was sometime in November, before Thanksgiving.
Q. Was that before or after the group meeting that Doctor Sheats and Doctor Jones and you held with other parents?
A. That was after.
Q. Now, you heard Mrs. Peiffer's testimony about George and typing?
A. Yes.
Q. And you heard Mrs. Peiffer's testimony about George and the resource period at the end of his day in ninth grade?
A. Correct.
Q. I want to ask you, first of all, about typing. To the extent that she stated or suggested that high school was the place where there was some agreement that George would get typing, do you agree or disagree with that characterization?
A. Can you restate that?
Q. Sure. With regard to her suggestion or her allegation that there was an agreement that high school was the place where George was going to get typing, do you agree or disagree with that such a characterization?

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A. I would have to disagree based on I don't know what her understanding and what specific courses she was talking about with typing. I do know that in previous IEPs it discussed typing. And I also know that in middle school they taught the home row typing through --- they were called specials, computer classes. So I do know that they learned those kind of skills. But as to her understanding about a course specifically just for typing, I do not know. I can't answer that.
Q. What do you know about the typing that's provided in the middle school, the typing instructions in the middle school?
A. Every year from grades five through eight they have a half-semester of computer class within their specials. And in that class they teach the home row, they teach typing, they do those kind of skills, the games that they have with typing and how fast you can --- how many words per minute you can type. They do those type of skills in the middle school.
Q. Was George in those classes?
A. In order to be a middle school student at Susquenita you had to take half a year of computer, so I would say yes.

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Q. Did you say anything to Mrs. Peiffer prior to, say, the ninth-grade IEP meeting that intended to foster an impression that George would be finally getting the typing instruction in ninth grade?
A. I don't recall myself saying that to her.
Q. Was there a discussion where that understanding was communicated to Mrs. Peiffer, again, prior to the ninth-grade IEP meeting?
A. In my presence?
Q. Yes, in your presence.
A. In my presence, no.
Q. Have you made any casual observations of George at a keyboard?
A. Yes.
Q. In what settings?
A. I saw him in his Standards Math class and he was on the computer, typing. I remember observing him do that. I was actually looking over his shoulder to see what he was doing.
Q. What are your impressions of him as a typist?
A. He was doing fine. By fine I mean, he wasn't necessarily on the home row keys, but he was typing.
Q. Let me ask you some questions about the resource class. You heard Mrs. Peiffer testify

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about an understanding that the final period of the day for George would be a resource period which he would be given the opportunity to organize his work before he went home. You heard that testimony?
A. Yes.
Q. Do you agree or disagree with the characterization?
A. That he would be provided with that period?
Q. Yes.
A. Yes.
Q. And what was the understanding that you were attempting to convey in that conversation?
A. That he would have --- that we would try in his ninth-grade year to provide a period or a period of time at the end of the day in order for him to organize, get his agenda, make sure that he has all his work with him when he went home.
Q. And that discussion took place when?
A. If I remember correctly, it was the end of his eighth-grade year, and actually Mr. Peiffer was in attendance. Mrs. Peiffer had surgery, and we discussed the need for George to have that time in order to organize himself or his homework.
Q. Now, after the discovery was made that

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Standards English and Standards Math were not being provided to George, how were those classes fit into George's schedule?
A. We fit the first one into his Computer Apps course at the beginning of the day, and we fit the Standards Math at the end of the day.
Q. And what was the content of Standards English?
A. The content of Standards English would be to provide additional reading, comprehension, those type of skills during that period.
Q. Where did that instruction take place?
A. That was in the computer room at the high school.
Q. Was it the same place or a different place where George had been taking his Computer Applications class?
A. It was the same classroom.
Q. How did the Standards English material relate to George's IEP?
A. We followed the SDIs within his IEP.
Q. In what way?
A. We provided the accommodations, any notes, those type of accommodations within the class. We also provided the small-group instruction that he would need within that classroom because it was a

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co-taught classroom with Mr. Ferry and Mrs. Ruel.
Q. Mr. Ferry was the instructor who was originally going to be providing the Computer Applications class?
A. Correct.
Q. And he was still in that classroom?
A. Yes, he was.
Q. And Ms. Ruel was his special education English teacher?
A. Correct.
Q. Was she already in the Computer Applications class to begin with?
A. Yes.
Q. You heard the testimony of Mrs. Peiffer to the extent that she said that during the Standards class George was placed in front of a computer and was learning, quote, baby stuff. Do you agree or disagree with that characterization?
A. I disagree.
Q. Why?
A. George, at that time, was getting instruction, kind of a two-pronged approach. He would be pulled back with Ms. Ruel and he would get that small-group instruction during that time for the reading and the comprehension and his English

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skills. He also had the opportunity to work on the computer, and they were working on a Keys to Work program, which is based on the Pennsylvania State Academic Standards and also on transition services.
Q. Now, how do the Keys to Work program relate to the PSSAs?
A. The Keys to Work program offers a reading and math component that are strictly adhered to with the standards for Pennsylvania.
Q. What do you mean adheres to the standards for Pennsylvania?
A. The course --- how it's laid out, the students take a pretest. They determine where they are within the standards, and then it provides different opportunities for them to obtain skills in their Standards areas.
Q. And George, by the way, was in Standards English, because he was tested at what level?
A. On the PSSAs?
Q. On the PSSAs, I'm sorry.
A. Below basic.
Q. And students who were basic and below basic were taking the Standards English class?
A. Correct.

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Q. You described this as small-group instruction. What size was this class?
A. The class itself, if I remember correctly, it had about 18, 19, 20 students in that class. However, it had two teachers. And Mrs. Ruel would pull them to the back and normally that would be two, three, four kids at a time.
Q. What was the content of Standards Math?
A. Standards Math, the content was, again, the standards --- the Pennsylvania State Standards for mathematics.
Q. And how was it taught?
A. Mr. Umbrow, who was a special education teacher, taught that course. He was also certified to teach high school math. So he taught the course. He taught it based on the Pennsylvania Standards.
Q. And again, you heard Mrs. Peiffer's testimony that in that class George was sitting in front of the computer learning baby stuff. Do you agree or disagree with that characterization as it pertains to Standards Math?
A. I disagree.
Q. Why?
A. I did observe George in that class on one

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occasion that I can recall. Within that class he was with Mr. Umbrow. They were going over math standards information. I actually asked Mr. Umbrow after he was done with George what they were specifically working on, and he stated that it was a particular standard, I can't recall now, and that George was doing very well with it. He was just doing the repetition and review-type portion.
Q. Was there any allowance made within the standards --- what period of the day was the Standards Math class?
A. It was the last period of the day.
Q. Was there allowance made within that class for giving George an opportunity to organize his day?
A. Yes.
Q. How?
A. It was either at the beginning or the end of the period, depending on how the period was structured, but we made sure that he had time in order to get his agenda, to ask any teachers if he missed any work, to get his homework, to get his folders ready, those type of things, to go home.
Q. Now, what was it that qualified or made George eligible for the Standards Math class?

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A. He would have to score basic or below basic on the PSSAs. George actually scored below basic.
Q. Now, I want to go back again. In ninth grade, what math class was George taking?
A. George was taking algebra.
Q. And why was George taking algebra?
A. That was the recommendation of his eighth-grade teachers. So when they move up to ninth grade, normally the teachers recommend certain courses, and that was the course recommended for him.
Q. Is algebra a ninth-grade math class?
A. Yes.
Q. And at what level was George taking?
Q. He was at the basic algebra.
Q. Was there any information known to the IEP team that this would be an inappropriate level for George?
A. No.
Q. Was there a concern raised at the IEP meeting that this would be over George's head?
A. No.
Q. Did George have any prior exposure to algebra before ninth grade?
A. I would have to look at his eighth-grade

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schedule, but normally eighth grade they have pre-algebra.
Q. Do you know whether George had taken that pre-algebra class?
A. Yes, he would have.
Q. Was there a discussion in the creation of the ninth-grade IEP about an extended school year program?
A. Yes.
Q. What was the discussion?
A. Again, the discussion would have revolved around the seven criteria for eligibility of extended school year. And actually, if you look on page 17 it indicates there the factors to determine ESY. And mainly when I started as Director of Special Education I asked that all teachers would put these in so that the IEP team could discuss those.
Q. Were these elements discussed at the IEP meeting?
A. Yes.
Q. What was the conclusion?
A. That based on his progress he was not eligible.
Q. What was the evidence that was used to

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determine that?
A. His disability category, his progress on his goals, the recoupment and regression of information, whether or not the interruption in the goal would, in fact, disrupt the goal itself.
Q. What do you mean by that?
A. Such as a life skills kind of goal that they need to --- I don't know if I'm explaining it correctly, that they need to continue with that goal during extended breaks because it's something that impacts their life so severely that they need that type of intensity in their programming.
Q. And what was the conclusion?
A. That George did not have that. That was not a factor.
Q. Was there a provision in this IEP for a transition plan?
A. Yes.
Q. Where would that be?
A. That would be on page --- it starts on page nine, the language about transition services and then continues in more specifics on page ten.
Q. And what was the goal with transition planning for George as to ninth grade?
A. The IEP team discussed his interest in

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vo-tech, his interest as employment as an auto mechanic and making sure that that was available so that he was able to put in applications for vo-tech.
Q. Did the re-evaluation process take place for George during ninth grade?
A. Yes.
Q. Was there a request for re-evaluation after the IEP was written for George?
A. No.
Q. When did that occur?
A. The re-evaluation occurred early September.
Q. And what happened with the re-evaluation?
A. The District and the Parent decided to waive the re-evaluation.
Q. Was there further evaluation that was conducted of George after the re-evaluation was waived?
A. In ninth grade?
Q. In ninth grade.
A. Yes.
Q. What brought that about?
A. In ninth grade? Mrs. Peiffer requested a neuropsychological evaluation, so we put that --- or we tried to put that into place and to get that

Page 1100

scheduled.
Q. Did the District schedule a neuropsychologic?
A. Yes.
Q. Did the District have a provider?
A. No.
Q. What did you do to attempt to coordinate a neuropsychological?
A. I actually had discussions with Doctor Sheats, our superintendent, because I know he is more familiar with psychologists within the area in order to schedule something.
Q. And were you able to locate one?
A. No.
Q. When and how was a neuropsychologist located?
A. I discussed it with Mrs. Peiffer and I do believe Mrs. Husic provided the name of a psychologist?
A. And that would be Doctor Grisolano?
Q. Correct.
Q. And the District agreed to a neuropsychological evaluation by Doctor Grisolano?
A. Correct.
Q. Let me go back to that for a moment. Was there any other testing that was agreed to be conducted on George?

Page 1101

A. Yes. We agreed for a psychiatric evaluation.
Q. And who did that?
A. Doctor Krecko.
Q. Was that an independent evaluation?
A. Yes.
Q. And who located Doctor Krecko?
A. Mrs. Husic.
Q. Did the District agree to fund or pay for Doctor Krecko's evaluation?
A. Yes.
Q. Was there any other testing that was done?
A. Independently?
Q. Any way.
A. Yes.
Q. What?
A. We were made aware that Mr. Klein wanted to come in and observe George during a day, so there was that evaluation. And there was also an independent speech/language evaluation completed.
Q. Was there a speech and language evaluation that was done by the District?
A. Yes.
Q. Was there psychological testing that was done by the District?
A. Yes.

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Q. Now, what prompted the speech and language evaluation that was done by the District?
A. When Mrs. Peiffer asked the District to do a re-evaluation, we recommended a psychological --- a speech and language evaluation and also an occupational therapy evaluation.
Q. So who did the psychological evaluation?
A. Brooke Yellets.
Q. And she's the District psychologist?
A. She is a Licensed School Psychologist.
Q. Who did the speech and language evaluation?
A. Becky Blazi.
Q. And who did the occupational therapy evaluation?
A. Heidi Metzge (phonetic).
Q. Is she a District employee?
A. No. She is employed by TherAbilities, the same agency as Ms. Blazi works for.
Q. Now, describe the process through which all of this information was pulled together?
A. This was all pulled together within a re-evaluation report. And we had --- Mrs. Peiffer asked for a re-evaluation by the District, so we had 60 days in order to complete that. So that's when I put in all the people that, the

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psychological, speech and language and OT.
Q. I want you to turn to Exhibit P-37. This is the re-evaluation report dated 4/3/09; correct?
A. Yes.
Q. Is that the date that the re-evaluation report was assembled?
A. Yes.
Q. And you mentioned a moment ago a deadline?
A. Yes.
Q. What was your deadline?
A. Sixty (60) days from consent of parent.
Q. How did April 3, 2009 match up with that deadline?
A. It was within the 60 days.
Q. At that point in time, did you have the report in your hands from Doctor Grisolano?
A. No.
Q. Did you have the report in your hand from Doctor Krecko?
A. Yes.
Q. Did you have the report in your hand from Ms. Goepfert?
A. Yes.
Q. Now, with regard to the Grisolano report, was it considered in this re-evaluation report?

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A. Yes.
Q. In what way?
A. We had an incomplete report from Doctor Grisolano at this period of time, as reported to the Parent, so we took those recommendations into consideration. But she was doing more testing and would not have the full report to us by this time.
Q. When did you get the full report?
A. At the IEP meeting that went along with this re-evaluation report at the end of April.
Q. So you didn't have it in time for the RR, but you did have it in time for the IEP meeting?
A. I received it from Mrs. Peiffer at the beginning of the IEP meeting.
Q. What do you mean by at the beginning of the IEP meeting?
A. She stated that she had received the full copy and I told her that we did not --- the School District did not receive that. It did not come to my office. And I actually took her copy and made a copy.
Q. And this was actually at the IEP meeting itself?
A. Yes.
Q. And what was the date of the IEP meeting?

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A. April 29th.
Q. Now, you were present for Doctor Grisolano's testimony?
A. Yes.
Q. You heard her testify about her opinion about whether George has ADHD?
A. Yes.
Q. Were her findings discussed in the RR, not in the IEP but in the RR?
A. Yes, they were.
Q. And were those findings considered in the RR?
A. Yes.
Q. And were they accepted or not accepted?
A. They were not accepted.
Q. On what basis?
A. The teachers did not report any ADHD, inattentive type. Actually, in Mrs. Peiffer's report it was the clinically significant portion of that report. And also it was in the report that we had at this time that they recommended a trial of medications. And obviously in an education setting, you don't — you cannot do that. So we did not take that into account. We considered it.
Q. Was that information available to the team at

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the time the RR was put together?
A. We had a preliminary report, and I do believe one of the things that she had said was that she identified ADHD, inattentive type.
Q. Now, you heard her testimony about her belief that George suffers from anxiety? Yes?
A. Yes.
Q. Was that considered at the RR?
A. Yes.
Q. And what conclusion did the team make as far as anxiety in the RR?
A. The teachers did not see anxiety as impacting his educational progress.
Q. Now, did you receive any more or different information from Doctor Grisolano about George and ADHD when you were developing the IEP on April 29th?
A. No. We had just gotten that report, so the IEP team did not have time to consider it. It was a lengthy report. But I did provide copies after that time of the report for the IEP team members.
Q. When the IEP was prepared, based on the October --- April 29th meeting, was there any additional information about ADHD that was relevant --- that the team deemed relevant in

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writing the IEP on April 29th?
A. No.
Q. The same question but with regard to anxiety?
A. No.
Q. Now, you testified that the Krecko report was actually in your hands at the RR meeting on April the 3rd?
A. Yes.
Q. Was the Krecko report considered by the team on April 3rd?
A. Yes, it was.
Q. And the Krecko report is in front of you at Exhibit P-6?
(Parents' Exhibit Six marked for identification.)
A. Yes.
BY ATTORNEY CLARK;
Q. Was this report considered by the team in writing the RR?
A. Yes.
Q. And what was recommended to the team by Doctor Krecko?
A. He stated the Parents and the School District need to meet and attempt to address parental concerns and requests regarding George's

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Individual Educational Program.
Q. Did that happen?
A. Yes.
Q. Were there any other educational recommendations that Doctor Krecko made?
A. No.
Q. Was there any information that the team received from Doctor Krecko other than this exhibit, P-6, ---
A. No.
Q. --- in writing the IEP on April 29th?
A. No.
Q. I want to turn your attention to when the IEP was --- was there an IEP that was prepared after the April 29th meeting?
A. At the April 29th meeting?
Q. At the April 29th meeting.
A. Yes.
Q. Was it presented to the Parents?
A. Yes.
Q. Did the Parents approve it?
A. No.
Q. What did they do to indicate their disapproval with the IEP?
A. They checked on the NOREP that they did not

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approve the educational recommendations. Mrs. Peiffer also provided a written summary of the things that she didn't agree with.
Q. Now, I want to turn your attention to Exhibit P-37. I'm sorry, I picked the wrong exhibit. P-38, and specifically page 40, 41, 42. What do these pages represent?
A. They are part of the Notice of Recommended Educational Placement and prior written notice.
Q. And that indicated the Peiffers took what action with regard to the IEP?
A. They did not approve the action.
Q. Now, based on their non-approval, what was the District to do with the IEP that it had discussed at the April 29th meeting?
A. We went back to the previously-approved IEP. Since it wasn't approved by the Parents, we did not implement that.
Q. Were there more discussions with the family about developing an IEP for George?
A. Yes.
Q. What happened?
A. Specifically after the May meeting?
Q. Yes, after the May meeting.
A. They asked for due process, I do believe, for

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the issue of extended school year, then they --- that was an expedited hearing. And I forgot the exact details of it, but that did not occur. And then we had an IEP team meeting at the beginning of the school year, actually the end of August, August 26th.
Q. So the next meeting was on August 26th?
A. Yes.
Q. And who was in attendance?
A. August 26th?
Q. Yes.
A. The Parents --- sorry, Mr. and Mrs. Peiffer, myself, Brooke Yellets, Michael Jones, Rebecca Lorfink, Doctor Sheats, yourself, Frank Clark, Yvonne Husic, Becky Blazi, Bill Lundberg, Jade Ruel, Matt Bingaman, Frank Clamini (phonetic). I think that was all.
Q. And what was the outcome of that IEP meeting?
A. We developed --- we worked off of the IEP that was presented to the Parents April 29th. So we worked off of that. We made changes and then it was approved at that date.
Q. Were there changes in the IEP that reflected George receiving any kind of services through vocational-technical school?

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A. Yes.
Q. What were they?
A. They were through his transition services, and that would basically be his half-day. He would be provided education at Cumberland Perry Area Vocational-Technical School.
Q. How did that fit into George's schedule?
A. That would be in the afternoon session. Susquenita students go to vo-tech, so that's how it would fit in his schedule.
Q. Describe George's day as a result of the changes in his IEP?
A. Instead of attending Susquenita solely, he would attend at the beginning of the day up until the lunch period, and then he would actually be transported to vo-tech, and then he is transported back here at the end of the day.
Q. Where is vo-tech in relation to Susquenita for the Hearing Officer's edification?
A. It's about 20, 25 minutes away, about that time. It's off of 81, on 114.
Q. So the route to get there is to go south on 1115 ---
A. Yes.
Q. --- and then take I-81 south ---

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A. Yes.
Q. --- to the Route 114 exit, ---
A. Correct.
Q. --- and then go south on Route 114?
A. Yes.
Q. And that's approximately what time duration trip?
A. Between 20 and 30, somewhere around there.
Q. Okay. And that's each way?
A. Yes.
Q. What services would George receive during part of his day at Susquenita?
A. He would receive all the services, as stated in his IEP. He would receive small-group instruction for special education, in a special education setting for English and reading instruction or his Standards, language arts, which is also a Wilson course. He receives regular education courses with accommodations and modifications for the other courses.
Q. What courses is George taking as a result of this IEP?
A. He is taking Standards Language Arts and Math. He is taking English, math and science. He has social studies at Cumberland Perry Vo-Tech.

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Q. And he takes automotive tech at Cumberland Perry Vo-Tech?
A. Correct.
Q. Where and when does he take Standards Math?
A. He takes it at the end of the day when he returns from vo-tech, two days a week for about an hour and 15 minutes to an hour.
Q. Does he take Standards English every day?
A. Yes.
Q. Does he take special ed English every day?
A. Yes.
Q. Does he take math every day?
A. Yes.
Q. All at Susquenita?
A. Yes.
Q. And he takes science at Susquenita?
A. Yes.
Q. Every day?
A. Yes.
Q. When is his lunch period?
A. He actually has his lunch period on the bus, when he is traveling to Cumberland Perry Vo-Tech.
Q. When does he receive the speech and language services?
A. At the beginning of the day, two days a week.

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Q. And that occurs when?
A. 7:15 to 7:45.
Q. Is any part of George's school date started at 7:45?
A. Yes. He goes to first period at that time.
Q. So he goes to first period straight from speech and language?
A. Uh-huh (yes).
Q. Yes?
HEARING OFFICER:
Yes?
A. Yes.
BY ATTORNEY CLARK:
Q. You understand why we do that?
A. Yes.
Q. All right. Now, with regard to the ninth-grade IEP, was there a discussion in that IEP about providing a Wilson program?
A. Within the ninth-grade IEP?
Q. I'm sorry, the tenth-grade IEP.
A. In the tenth-grade IEP, yes.
Q. And what was that discussion?
A. Mrs. Peiffer wanted him to be enrolled in the Wilson Reading program.
Q. Did she explain why?

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A. If I remember correctly, it was from Mr. Klein's recommendation.
Q. Okay. What is Wilson designed to do?
A. It is a phonics-based program, so its main objective is to decode words.
Q. As a member of George's team, what did you see George's need in this area?
A. We really saw the need starting in high school as --- we try and place the focus on vocabulary and comprehension more so than the decoding and the functional type of skills.
Q. Why is that?
A. That is because vocabulary is so important, especially in science and social studies. And we have found that there's more success when we teach vocabulary development and understanding and comprehension, and that way the fluency normally increases with that, because fluency is rate and accuracy and especially in a student that has processing problems or has those type of issues. We tend to get away from the fluency more and focus on the vocabulary just because fluency, again, takes into account rate and accuracy. And the rate is severely affected in a student that has those kind of — has processing problems or

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those kind of things.
Q. Are you familiar with any research that would enable you to take a learner like George, at his age, and increase his rate?
A. Research about reading instruction?
Q. Yes.
A. Yes.
Q. And what would happen?
A. That would be the vocabulary development.
Q. Okay. So it would increase his range of vocabulary development?
A. Yes.
Q. To what extent did you express these views to Mrs. Peiffer in the course of the IEP meetings?
A. It was discussed. It was discussed in the IEP meeting about Wilson Reading and about Corrective Reading SRA and explanation of both of those things, and that occurred in August.
Q. Was there a recommendation by the District that George receive or not receive Wilson Reading?
A. At that IEP meeting the District raised concerns about the Wilson Reading Program, raised concerns about using it exclusively with George and raised concerns about the age appropriateness of the program.

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Q. What ultimately was the outcome of that discussion?
A. That he would receive Wilson within the Standards Language Arts period.
Q. And who was the instructor?
A. Mrs. Ruel.
Q. Would he receive anything other than Wilson instruction during the Standards English class?
A. No.
Q. Did teaching the Wilson Reading in the Standards English class have a connection to the PSSAs?
A. Yes.
Q. In what way?
A. PSSAs --- obviously on the PSSA portions of the test --- the students need to read passages and answer questions. So Wilson is designed to decode unknown words, so therefore it has the connection if the Wilson improves the decoding rate and fluency rate of the students, then that would have a positive impact on the completion of the PSSAs.
Q. Does George receive specially-designed instruction in the Standards English class?
A. Yes.

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Q. And what is the focus of the Standards Math class in tenth grade?
A. In tenth grade?
Q. Yes.
A. That is focused on the Pennsylvania State Standards.
Q. Does George receive specially-designed instruction in that class?
A. Yes.
Q. Now, you heard some questions about George not having a math goal in his tenth-grade IEP.
A. Yes.
Q. Can you explain why?
A. In tenth grade George is enrolled in a geometry course. He also has a co-teacher in that course. So the outcome --- or the goal of those courses would be the regular ed curriculum and his mastery of those skills. And typically in that environment, in the regular ed environment, with a co-teacher, that type of progress is measured by observations, is measured by classroom assignments, the completion of those, the mastery of those skills.
Q. Was George's eligibility for extended school year discussed in his tenth-grade IEP?

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A. Yes.
Q. And what was the outcome?
A. The outcome is that we would discuss it at a later time. If I remember correctly, Mrs. Peiffer did not agree with George not having ESY. She felt that from Mr. Klein's reports and information she received, that he was eligible. The District basically said no, that we feel he's not eligible. So that's why we said that we would determine when we have more information and his progress on his goals this year.
Q. You heard Mrs. Peiffer testify about a desire to have George work with Books on Tape?
A. Yes.
Q. Does the District provide Books on Tape?
A. Yes.
Q. Is it an element of George's IEP?
A. No. Based on the information that we provide that to all of our students.
Q. I want to turn your attention while we're on P-39 to page 35. There's some handwritten modifications to this page?
A. Yes.
Q. Can you explain whose --- well, first of all, do you know whose handwriting that is?

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ATTORNEY HUSIC:
Did you say P-35?
ATTORNEY CLARK:
P-39, page 35.
ATTORNEY HUSIC:
Oh, okay. P-39, page five?
ATTORNEY CLARK:
Page 35.
HEARING OFFICER:
Thirty-five (35).
A. Yes. Most of the information on this page is handwritten by myself. We worked off of the April IEP when this was established in August.
BY ATTORNEY CLARK:
Q. And can you describe the Earobics addition there?
A. That was a discussion based on the findings of Grisolano's report, that we would be providing that. We would be purchasing that.
Q. It says purchased by school?
A. Yes.
Q. Was it?
A. Yes.
Q. It says pretest within the first marking period. Was it?

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A. Yes.
Q. Did the District comply with that piece?
A. Yes.
Q. Now, I want to ask you some questions about some specific elements in this and/or previous IEPs. First of all, there have been elements in this IEP that relate to an agenda?
A. Yes.
Q. Can you explain what the agenda is?
A. The agenda is a spiral-bound notebook type of thing that delineates the days of the week, and it's which George writes in his assignments, his homework, what he's covered that day.
Q. For how long has the agenda been used with George?
A. I personally know it's been used since grade eight and probably before.
Q. I've heard allegations from Mrs. Peiffer that the agenda was not being followed.
A. Correct.
Q. What do you have to say to that?
A. We were following — it was in the SDIs that George would be writing in his agenda his homework, those assignments that he would have to do. And that's always been a goal of ours, to get

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him to be independent and write in the agenda. So it doesn't happen every day. That's what I am assuming that Mrs. Peiffer was talking about. There are some days when George does write in them. There are some days, you know, when he doesn't. There are some days that the teachers remind him, those type of things.
Q. Now, there's also been testimony about a checklist.
A. Yes.
Q. Is the checklist different from the agenda?
A. Yes.
Q. In what way?
A. The checklist was developed by Mrs. Peiffer at the conclusion of the April 29th meeting, and it's a way of monitoring how George is being independent with assignments, with getting his agenda signed, with getting out notebooks and being prepared for class.
Q. And I want to turn your attention to two separate sections of Exhibit P-39. First I want to turn your attention to pages 30 and 31.
A. Yes.
Q. And then I want to turn your attention also to pages 48 and 49.

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A. Yes.
Q. How do you differentiate pages 30 and 31 from pages 48 and 49?
A. Thirty (30) and 31 —.
ATTORNEY HUSIC:
Just a second.
A. Sorry.
ATTORNEY HUSIC:
Of the same exhibit?
ATTORNEY CLARK:
Same exhibit, yes.
BY ATTORNEY CLARK:
Q. How do you differentiate 30 and 31 from 48 and 49?
A. Thirty (30) and 31 was first developed by Mrs. Peiffer to kind of lay out her expectations about how George would go throughout his day, opening his notebook, getting out his homework folder, putting away his homework folder, that type of thing. The one on pages 48 and 49 were more in depth and it took this information and it basically put it into the different courses that he would have. And this was established after we noted what his schedule would be.
Q. Who created pages 30 and 31?

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A. Mrs. Peiffer.
Q. When? Not a date but a time frame.
A. In conjunction with the IEP that was developed April 29th.
Q. And who developed pages 48 and 49?
A. Mrs. Peiffer.
Q. When?
A. This was in August, after we knew what his schedule was going to be.
Q. Now, what was your reaction to pages 30 and 31?
A. It was a way of monitoring that George was doing all those things, that he was taking his folders to class, he was taking his agenda, those type of things.
Q. Did you have an impression as to its usefulness?
A. It was just to make sure that these things were occurring throughout the day and so we could monitor how independent he was doing these things or how not independent he was doing these things and the reminders about consistency for him.
Q. Okay. Did you view pages 48 and 49 as being a change from pages 30 and 31?
A. They were a change just because they were more

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in depth. Obviously, the length has increased, and the font size is very small.
Q. Did you have an impression about the usefulness of pages 48 and 49?
A. I thought this type of format was overwhelming to look at. I know it delineates the start of his period and the end of his period, and this was something that Mrs. Peiffer developed as a way of reporting out how he did. And if you look at the top, there was also added self prompt and refused, where it would be checked by the instructional assistant.
Q. And you're pointing now to page 48 and 49?
A. Yes. So there's different boxes there. There's things to do with the beginning of the period, the end of the period. And this would be the five minutes at the beginning, at the end. These things are supposed to be checked.
Q. Did you voice any concerns about pages 48 and 49?
A. At the August IEP meeting?
A. I remember there was discussion about — that it seemed very cumbersome for the instructional assistant to fill out — to make sure that all of this was occurring. But again, Mrs. Peiffer

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stressed that we needed to have consistency when working with George and that this would be a way that she could ensure that we were being consistent throughout the day with him.
Q. Now, how, if at all, was this checklist, 48 and 49, addressed in the IEP?
A. It is a way of monitoring how well George is doing things independently, such as preparing for class and being organized.
Q. What did you mean by that?
A. It's related to goal — I think we named it at number seven on page 29 of the same exhibit, using an agenda and daily checklist, which we attached, being prepared for class, record assignments, three verbal prompts per day for four out of five days.
Q. How does the checklist on 48 and 49 relate to that goal?
A. That describes how the student's progress toward meeting this goal will be measured on data collection charts daily on a checklist. And that's the checklist we currently use.
Q. So this means it measured his progress on that goal?
A. Yes.

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Q. You heard testimony from Mrs. Peiffer regarding an element of the IEP that George would be re-taught materials at home?
A. Yes.
Q. Can you describe the genesis of that portion for the IEP?
A. Since I have been on the IEP team, grade eight, Mrs. Peiffer has insisted that there be an SDI speaking to teaching him skills at home, being able to have lesson plans, being able to have information at home about what he's doing, what he's working on, so that she can work at home with him.
Q. Has the School District ever required that element of the IEP?
A. No.
Q. You heard Mr. Klein testify about the day he observed George in ninth grade?
A. Yes.
Q. Did you accompany Mr. Klein to George's class?
A. Yes.
Q. What class did you accompany George to — I'm sorry, Mr. Klein to?
A. The Standards Language Arts class.
Q. And that would have been what period of the

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day?
A. First period.
Q. And what time did that period begin?
A. It was just beginning, so the students had gone into the classroom. And I actually pointed out George as he was going by to Mr. Klein.
Q. Did you have a conversation with Mr. Klein during that period of time?
A. Yes.
Q. What was the duration?
A. About 10 or 15 minutes.
Q. And this is while the first period is taking place?
A. Yes.
Q. Did you accompany Mr. Klein at any other point at that day?
A. No.
Q. In your discussion with Mr. Klein, did you make any offer about providing any District data?
A. Yes.
Q. What offer did you make?
A. I said because there is a release of records, if he needed any information, that he would just need to request it and I would provide a copy of that to him.

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Q. Did he ever avail himself of that offer?
A. No.
(Parents' Exhibit 18 marked for identification.)
BY ATTORNEY CLARK:
Q. I want to turn your attention to Exhibit P-18.
A. Yes.
Q. What does this exhibit represent?
A. This represents his progress on his goals for eighth grade.
Q. And how is this information recorded?
A. It is recorded on an Excel type of spreadsheet, where we put in the data or the goal and then it charts it for us.
Q. I want to turn your attention more specifically to Exhibit --- page three of Exhibit P-18.
A. Yes.
Q. There are two lines. One is a solid line ---
A. Yes.
Q. — and one is a line with diamonds?
A. Correct.
Q. What's each line indicate?
A. The one with the diamonds is the goal line or the target line. The one that's solid is the

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trend line.
Q. What determines the target line?
A. The present level at the beginning and then the goal at the end.
Q. And what determines the target line --- yes, the target line.
A. The trend line?
Q. I'm sorry, the trend line.
A. The trend line is determined --- it basically factors in the points --- or the data points and then lines that up. It's an average, average performance, how the student is doing on any given day.
Q. Is that done by a person? Is it done by the software?
A. It's done by the computer, Excel spreadsheet.
Q. Now, as I take a look at the same page, I can see that there are points --- well, first of all, the jagged line are data points?
A. Yes.
Q. And there are times where there's no connection between data points?
A. Correct.
Q. What does that mean?
A. That means he missed that progress monitoring

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day or it wasn't entered in or --- the data is not there.
Q. And when you're looking at these trend lines, what is it you're looking for?
A. The trend line to go up or to increase.
Q. Now, you've heard the testimony of Mr. Klein?
A. Yes.
Q. And you've heard his testimony about his trend line moving farther away from his target line?
A. Yes.
Q. Do you agree or disagree with his characterization of that being an indication that George is losing progress?
A. I would disagree because if the trend line is increasing, the student is making progress.
Q. What conclusion do you make from this trend line here?
A. That George is making progress on this goal.
Q. Turn your attention to the next page, four.
A. Yes.
Q. What conclusion do you make as far as George's trend in writing?
A. That he's making progress on the goal.
Q. And this exhibit, by the way, is from George's eighth-grade year?

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A. Yes.
Q. Turn the next page to page five. Now, this has only a target line?
A. Yes.
Q. It doesn't show a trend line?
A. Right.
Q. Do you know why?
A. This goal --- just the goal itself is different. It's the agenda writing. And if I remember the goal correctly, it was 95 percent accuracy. George will write at least 95 percent of his homework assignments into his agenda. So this was basically we wanted to monitor how well he was writing that information into his agenda.
Q. Now, that's also reported on page two of the same exhibit?
A. Yes.
Q. And the agenda is third of those three goals?
A. Yes.
Q. What does MP mean?
A. Making progress.
Q. And what does P mean with regard to the other goals?
A. I'm sorry. MP is minimal progress and P is progress, progressing. And that's on page one.

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Q. Okay.
(School district Exhibit 24 marked for identification.)
BY ATTORNEY CLARK:
Q. Now, I want to turn your attention to Exhibit S-24. Specifically, I want to turn your attention to page two --- I'm sorry, page three.
A. Yes.
Q. And this progress monitoring is from what year?
A. This year.
Q. His tenth-grade year?
A. Yes.
Q. And what does this progress monitoring tell you?
A. On page three is that he's making progress.
Q. And this goal pertains to his exploration of career goals?
A. Yes, his transition.
Q. Now, two pages from there, page five, this goal deals with what area?
A. Reading fluency.
Q. This progress monitoring?
A. Yes.
Q. The trend line in this particular exhibit is

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going in what direction?
A. Down.
Q. And can you explain why that is?
A. This was based off of the Wilson Reading Program, so in my understanding of where George was, they were learning the basic sounds of the letters and those type of things. So the decoding and fluency might not be directly tied or might show a decrease in the reading fluency because, again, fluency is rate and accuracy. But I know we did look at that, and I know that we made sure that we were making correct accommodations for George throughout that so that he would make progress and the trend line would go --- would increase.
Q. Now, this data is as of what date?
A. I think this was the first marking period, second marking period. The last data point was January 8th.
Q. Now, I see that there are some gaps in the data points ---
A. Yes.
Q. — on this graph?
A. Yes.
Q. And what do those gaps do to his reading

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fluency?
A. It definitely decreases it because there's no --- there's no data on those dates. So within the trend line it's the average of the point. So he was not here during that time.
Q. Is it going to register as a zero for the purposes of measuring his trend line?
A. Yes.
Q. Do you have more current information on George's progress monitoring and reading fluency?
A. Yes.
Q. What is that information?
A. That he's making progress.
Q. Do you have more current information on the trend line?
A. Yes.
Q. And what's that?
A. That it's increasing.
Q. So his trend line in reading fluency is now increasing?
A. Yes.
Q. I want to turn your attention to page seven. Now, this is showing only a trend line — I'm sorry, a goal line; right?
A. Correct.

Q. It's not showing a trend line?
A. No.
Q. Do you know why?
A. In order for a trend line to be shown on this Excel spreadsheet, the teacher has to go in and check it. So it was not checked on this goal.
Q. Have you seen a current progress monitoring of George's writing goals?
A. Yes.
Q. And what is that?
A. That is increasing. He is making progress.
Q. Is there a trend line?
A. I can't specifically tell you.
HEARING OFFICER:
What is your answer?
A. I don't specifically remember without looking at it on that goal.
BY ATTORNEY CLARK:
Q. I want to turn your attention to page nine. What does this indicate?
A. This indicates his progress on his goal for decoding.
Q. And is that a Wilson goal?
A. Yes.
Q. And again, there's a target line but no trend

line?
A. Correct.
Q. Have you seen more current information on George's progress monitoring and decoding?
A. Yes.
Q. What does it indicate?
A. That he's making progress.
Q. You were present for the testimony of Mr. Klein regarding the designation of time when George was in special education?
A. Yes.
Q. You heard his characterization of how the time was allegedly misreported in George's IEPs and NOREPs?
A. Correct.
Q. Do you agree or disagree with this characterization?
A. I disagree.
Q. In what way?
A. With the new Chapter 14 regulations, they split apart the Penn data reporting, which is basically the time that a student spends in the regular ed --- physically spends in the regular education setting. The special education supports are not defined as the supportive services that

are given to a student in any setting.
Q. And these changes became effective when?
A. When the Chapter 14 regulations ---
Q. Which was how long?
A. --- took place. Maybe a year, two years ago.
Q. Do you have an opinion as to the appropriateness of George's IEP?
A. Yes.
Q. What is it?
A. I feel that they are appropriate based on George's needs.
Q. Do you have an opinion as to the appropriateness of George's placement?
A. Yes.
Q. What's that?
A. I feel that he is appropriately placed.
Q. Do you have an opinion as to the appropriateness of the identification that was made in George's RR in 2009?
A. Yes.
Q. What's that?
A. I would agree with it.
ATTORNEY CLARK:
If we could just take two minutes here? I just want to look at these notes.

HEARING OFFICER:
We'll go off the record. One second. Do you have any objection ---?
ATTORNEY HUSIC:
No.
COUNSEL REVIEWS NOTES
ATTORNEY CLARK:
No more questions.
HEARING OFFICER:
We've had the witness on the stand now for almost two hours, about an hour and 50 minutes. Why don't we take a five-minute break or so for restroom and come back for Cross.
ATTORNEY HUSIC:
Okay. Are we not taking a lunch break at all then?
HEARING OFFICER:
Well, I would like to complete this witness before we do anything in terms of an extended break. So let's take a five-minute break. We'll go off the record.
SHORT BREAK TAKEN
HEARING OFFICER:
We're back on the record after a brief break. And Ms. Husic, the witness is ready

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for Cross Examination.
ATTORNEY HUSIC:
Okay. Thank you.
CROSS EXAMINATION
BY ATTORNEY HUSIC:
Q. Good afternoon, Ms. Sawyer.
A. Good afternoon. I wanted you to first turn to Exhibit P-2, the very beginning part of the book. This is Andy Klein's report, and you were asked several questions about Andy Klein's report and his testimony and whether you agreed or disagreed. And then you were also asked whether the IEP team discussed the content of Mr. Klein's report. Mrs. Peiffer doesn't recollect any discussion regarding Andy Klein's report at the IEP meeting. Can you specifically look at this report and say what was discussed at the IEP meeting?
A. At the IEP meeting we discussed Mr. Klein's recommendation for extended school year services. We also discussed his recommendation for the reading program, his recommendations for --- I do believe it was the Saxon Math programming. Those are the things that I can recall off the top of my head.
Q. Just as a general conclusion, would you say

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you agreed or disagreed with Mr. Klein's report?
A. With the report overall?
Q. Yes.
ATTORNEY CLARK:
I have to object just to the vagueness and overall breadth of the question.
HEARING OFFICER:
Well, I mean, I think I'll sustain the objection.
ATTORNEY HUSIC:
Okay.
HEARING OFFICER:
Perhaps we can have it as what portions she does agree with ---
ATTORNEY HUSIC:
Okay.
HEARING OFFICER:
--- and allow the witness to then give us her views of the report.
BY ATTORNEY HUSIC:
Q. Do you believe — I'm sorry. Do you agree with Mr. Klein's recommendation regarding a structured math program such as Saxon Math?
A. I disagree with that.
Q. And why is that?

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A. I believe George can make appropriate progress within the regular education curriculum and specially-designed instruction. I feel that that is the appropriate placement for him.
Q. And what data is that based on?
A. It's based upon his progress on his goals. It's based upon the information from his current teachers. It's also based upon my professional view of a Saxon Math program.
Q. Is there any other program that you would recommend besides Saxon Math that might assist George?
ATTORNEY CLARK:
Well, objection to the form of the question. She didn't recommend Saxon math.
BY ATTORNEY HUSIC:
Q. Is there any other program you would recommend for George in order to improve his math skills?
A. No. I think he is making appropriate progress in his current placement, which is based on curricular goals.
Q. Would it be fair to say that you also agree with the psychoeducational testing that was performed by your own psychologist and on P-37, at page five, that indicates George's reading, math

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and written expression skills all fall into the proficient range based on expectations for his adolescent age?
A. Yes, I agree with the testing.
Q. You agree with the testing?
A. Yes. The results of the testing.
Q. You agree with the results of the testing, but you do not see that math is a need for George?
A. Math is a need for George in what way? In increasing his math skills, yes. And I believe that can be appropriately accommodated for in the general education setting.
Q. According to your own District's psychologist report, in numerical operations and math reasoning George is nearly two standard deviations below in those two areas. Do you believe that that does not rise to a need to have a math goal?
A. I believe his need can be met in the regular education setting. I believe on this testing this is what was reported. But again, this is just one test, so we look at his progress on his goals, the appropriateness of that, when programming for a student. We just don't look at one test.
Q. Do you agree with Mr. Klein about the implementation of the Wilson program?

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A. I do not agree with the implementation of the Wilson program.
Q. The District does not agree with it, but yet implemented that program for George this entire school year?
A. Correct. You asked me if I agreed with the Wilson in a secondary student, and I don't. The IEP team, though, met and felt that it was appropriate. So in that light, yes, we thought --- as an IEP team, we thought it was appropriate.
Q. Do you believe that George should have had extended school year --- strike that. Let me rephrase that.
Mr. Klein cites the lack of extended school year as an issue in his report. I assume, based upon your testimony, you still are of the position that George should not have had extended school year services?
A. Yes.
Q. Is it going to --- as far as you know, would it be your position again for an upcoming IEP that he would not have extended school year?
A. That would be based on the seven criteria and the IEP team's discussion of that.

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(Parents' Exhibit Three marked for identification.)
BY ATTORNEY HUSIC:
Q. If you turn to P-3, this is Doctor Grisolano's evaluation. Now, this is an evaluation that the District paid for; correct?
A. Yes.
Q. Are there parts of this evaluation that you agree with?
A. Yes.
Q. And there are parts you disagree with?
A. Without reviewing it fully again, I would have to say there are parts that we took into consideration in writing his IEP. As far as the ones that I don't --- in the educational setting, we don't see ---.
HEARING OFFICER:
What page are you referring to?
A. I'm just looking at the recommendations on 22, 23, 24, 25, 26, all the recommendations she made. Overall, we don't see the impact of any ADHD, inattentive type, on his educational progress, which I do believe was one of the things that was in the report --- as part of Doctor Krecko's report, too.

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BY ATTORNEY HUSIC:
Q. Both of those individuals identify the presence of ADHD. Apparently the District agreed with that. Did you seek any approval from Mrs. Peiffer to do independent testing regarding ADHD?
A. Independent from Doctor Krecko?
Q. Yes.
A. And in addition to Doctor Krecko and Doctor Grisolano?
Q. Yes.
A. No.
Q. So if you didn't undertake that, basically what you're left with is the conclusion of Doctor Grisolano and Doctor Krecko, correct, indicating that George does have a diagnosis of ADHD?
A. That from the information that they were provided, that they feel that he has ADHD, inattentive type?
Q. Right.
A. Correct.
(Parents' Exhibit Four marked for identification.)
BY ATTORNEY HUSIC:
Q. Exhibit P-4, on Gayle Goepfert's report, did you form an impression about whether you agreed or

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disagreed with this evaluation?
A. Yes.
Q. And what was that?
A. That we agreed and that her report was very similar from the findings from Becky Blazi.
Q. Going back to Doctor Grisolano's report, is it your testimony to the Hearing Officer that either the multidisciplinary team and/or the IEP team had an active discussion regarding the Grisolano report and the Krecko report regarding the parts that you agreed and disagreed with?
A. The Krecko was presented before the evaluation and the IEP in April, so we did discuss that and that was part of our plan. The Grisolano, we had --- I think at the time we had a brief report from her just because the whole reporting wasn't done and we had to do it within 60 days. So that report wasn't available. I'm sorry. What was your question again? Whether we considered ---?
Q. No, not considered, actually discussed the report so that the Parent and the team could --- and the Parents, as part of the team, would be able to hear the discussion regarding the submission of those reports.
A. Right. The Grisolano we did not officially

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discuss as an IEP team. We took it into consideration in that we took some of the recommendations, the most important recommendation such as the Earobics and those type of things, but we have not discussed it up to this point.
Q. Insofar as Doctor Krecko's evaluation in P-6, of the diagnosis on page three that he lists, ---
A. Yes.
Q. — you do not agree with the ADHD diagnosis?
A. We do not see, and we, as in the teachers, do not see that impacts his educational progress. So therefore, within the IEP programming, it wouldn't be appropriate.
Q. When there is two experts, a psychiatrist and a neuropsychologist, both that have a finding of ADHD, under what authority does the District choose to ignore that particular finding?
ATTORNEY CLARK:
Objection. Objection. Argumentative question.
HEARING OFFICER:
I'm going to overrule the objection. Let the record show I don't think the question was asked in a belligerent way.
ATTORNEY CLARK:

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I'm not trying to suggest that it was. But by using the word ignore, it presupposes that there's an obligation to do something ---
HEARING OFFICER:
Well, I ---.
ATTORNEY CLARK:
--- and that something was disregarded.
HEARING OFFICER:
Well, that may be — connotatively, that may be the case, but I'll say to you, you can answer the question as it is asked. I don't see it as a prejudicial question, so you can answer the question.
A. We considered the findings. We did not ignore the findings, but we — again, I say we, the teachers felt that it did not impact his educational progress.
(Parents' Exhibit Eight marked for identification.)
BY ATTORNEY HUSIC:
Q. On P-8, this is the re-evaluation report in September of 2005. Did you review this report in connection with the upcoming hearing or had you reviewed this report as part of becoming the

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Director of Special Ed?
A. I reviewed this report before his eighth-grade team meeting, when I became the Director of Special Education.
Q. Did George's --- the third bullet down, did his scores in reading present a concern to you?
A. Yes.
Q. On the next page it's referenced the Corrective Reading?
A. Yes.
Q. Would you also agree that this evaluation report does --- other than just referencing the level, does not give any measure of progress in George's --- George's progress with the Corrective Reading program?
A. It states that he was two-thirds of the way through B-1 level of Corrective Reading.
Q. When did he start Corrective Reading? Well, let me put it --- this report --- this evaluation report doesn't reference that; does it?
A. When he started Corrective Reading?
Q. Yes.
A. No.
(Parents' Exhibit 17 marked for identification.)

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BY ATTORNEY HUSIC:
Q. On P-17, this is George's IEP dated October 2006. Is it correct you were not part of the team at that point?
ATTORNEY CLARK:
Which exhibit are you on?
ATTORNEY HUSIC:
P-17.
BY ATTORNEY HUSIC:
Q. And this IEP covers a span of two school years.
A. The one that's dated October 17, 2006?
Q. Yes, starting at page four.
A. That is correct, I'm not --- I was not.
Q. Did you review this IEP at all?
A. Yes.
Q. Attached to this IEP there are no progress reports. Do you know if any exist?
A. Yes.
Q. They exist?
A. Yes.
Q. Why were they not included in this IEP ---?
ATTORNEY CLARK:
Why were they not included in a Parent exhibit? This is a Parent exhibit.

HEARING OFFICER:
One second. One second.
ATTORNEY HUSIC:
Well, why were they not included in a School District exhibit either?
HEARING OFFICER:
Well, is the question why were they not included or why were they not provided?
ATTORNEY HUSIC:
Why were they not provided?
ATTORNEY CLARK:
Well, I don't know it's been established that they weren't provided.
HEARING OFFICER:
Well, that's the point of my question, is I want to make sure we're --- what the question is we're ---
ATTORNEY HUSIC:
Provided.
HEARING OFFICER:
--- going to fight about. Okay. So the question is, do you know why --- well, is it the Parents' assertion that those progress reports were not provided?
ATTORNEY HUSIC:

Yes.
HEARING OFFICER:
Okay. Let me ask this, contemporaneously or in terms of document requests pursuant to this hearing?
ATTORNEY HUSIC:
Both.
HEARING OFFICER:
So let me ask Ms. Sawyer --- you have been involved in the District's preparation for this hearing; is that correct?
A. Yes.
HEARING OFFICER:
And was it part of your duties to help in the preparation of document requests by the Parents in preparation for this hearing?
A. I provided Mr. Clark with all of the School District's documents.
HEARING OFFICER:
Okay. So you provided --- and I mean related to this hearing, ---
A. Yes.
HEARING OFFICER:
--- you participated in providing or in seeing that documentation was provided by

request of Parents for this proceeding?
A. Correct.
HEARING OFFICER:
Having heard that, I will overrule the objection to the extent that you weren't --- it would not have been your responsibility, obviously, to talk about the provision of those reports at the time it was produced because that was not yet within your scope of duty?
A. Correct.
HEARING OFFICER:
But in terms of the documents that you --- that the District had in its possession and that were requested by Parents as a result of this hearing, this process, the complaint that was filed, however you choose to characterize that, you can answer the question. So the question is, are you aware whether or not the progress reports for the IEP, in effect, as of June 26th, 2009 --- excuse me, 2007, which is what I'm involved in, progress reports for the IEP and goal measurement at that point, were those provided to the Parents, in your knowledge?
A. In my knowledge, I don't know.
HEARING OFFICER:

Were they provided by you as part of document preparation by the District for these proceedings?
A. They would have been provided to Mr. Clark, yes.
HEARING OFFICER:
Well, whether or not they were provided to a specific individual, that's not my concern. My concern is, within your knowledge, ---
A. Yes.
HEARING OFFICER:
--- that kind of progress monitoring data would have been provided as a result of such a request?
A. Yes.
HEARING OFFICER:
Okay. So there's the answer to the question.
ATTORNEY HUSIC:
Okay. Very good.
(Parents' Exhibit 19 marked for identification.)
BY ATTORNEY HUSIC:
Q. If you can turn to P-19. My question is

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merely whether this document was provided to you --- this occupational therapy evaluation was provided to you by the Peiffers.
A. I don't recall specifically.
Q. Was it a part of George's record?
A. I would have to look at his record.
Q. I thought you already said you did look at his file. You don't remember, is that your answer?
A. I did look --- yes, I did review his file. About the specific report, I don't specifically remember myself reading through it. I just don't remember.
(Parents' Exhibit 20 marked for identification.)
BY ATTORNEY HUSIC:
Q. The next exhibit, P-20, do you remember seeing this psychological evaluation in George's file and reviewed it?
A. I do remember seeing this report.
Q. On page seven of that exhibit, you see that at this time there was also a diagnosis of a math disorder?
A. Yes.
Q. Do you know if the IEP team considered this evaluation as part of the '06-'07 school year IEP?

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A. I don't know.
(Parents' Exhibit 21 marked for identification.)
BY ATTORNEY HUSIC:
Q. P-21, do you recall having received this evaluation from the Peiffers?
A. I don't recall specifically. I recall seeing this evaluation. I don't recall who specifically gave it to me.
Q. And on page six of seven, in the diagnostic impression, do you see there's also an issue with mathematics disorder?
A. Yes.
Q. Do you know if this was discussed by the IEP team during the '07-'08 school year, which would have been George's eighth grade and when you were involved?
A. I don't remember considering this, no.
Q. Do you know if the team, during eighth grade, addressed, at all, the diagnostic impressions as related to George's behaviors?
A. On page six?
Q. Yes.
A. No, I don't remember that.
Q. Okay. On page seven of that evaluation, point

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number three, it indicates a psycho ed eval is recommended to assess George's need for additional support in the classroom. Would it be fair to say the District did not follow up on that evaluation at that time?
A. I am not aware of the District considering this report, and no, we did not do a re-evaluation at this time.
Q. Okay. At P-23, the IEP dated October 15th of '07, ---
A. Yes.
Q. --- this is the evaluation where George was discontinued from speech?
A. Yes.
Q. Is it also correct to say there was no evaluation to further discuss the issues regarding receptive and language disorders; is that correct?
A. That is correct.
Q. At this point in time, George's computer was taken away from him. What happened with that?
ATTORNEY CLARK:
Objection. That's presupposing that his computer was taken away from him.
HEARING OFFICER:
Let me say it this way. If a

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computer was discontinued as an assistive technology or some kind of related service or both, we'll just refer to it as removal of the computer from the student's program.
ATTORNEY HUSIC:
You know what, if I can rephrase that, maybe it will help.
HEARING OFFICER:
Okay.
BY ATTORNEY HUSIC:
Q. Do you remember a computer being removed from George's use at this time?
A. I remember at the IEP team meeting we discussed him having a computer.
Q. What I cannot tell from this IEP, and maybe you can point that out for the Hearing Officer, on October 15th, 2007, was Corrective Reading still being utilized or had it been discontinued?
A. It was still being utilized in eighth grade.
Q. Okay. Can you point to a goal and/or information regarding George's level that he received in Corrective Reading according to his academic functioning skills?
A. The reading program would have been provided through the oral reading goal.

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Q. On page seven?
A. Yes. And that's how we would have measured his progress in his reading program.
Q. So given a passage at fifth-grade level, George will read orally at a rate of 120 words; is that it?
A. Yes.
Q. And that's Corrective Reading?
A. Yes.
Q. Where in this IEP then does it indicate the level that George was operating at within the Corrective Reading program?
A. It does not have that information.
Q. If it does not have that information, how would a reader know that the Corrective Reading program was being used? Or would they?
A. Just by reading his IEP, it doesn't state the Corrective Reading program is used. So no, if you just read through his IEP you would not know this was being used.
Q. So at this point, the Hearing Officer --- or what you're essentially asking the Hearing Officer is to take your recollection that the Corrective Reading program was being implemented?
A. Yes. That's also based on observations and

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knowing his programming in eighth grade.
Q. Well, specifically the Hearing Officer has to review this document, and what he needs to determine is whether Corrective Reading was being implemented. And the last documentation that we have is from the '06-'07 school year. I'm sorry, from the '05 RR that indicates George was at Level I. So is it your testimony that there is no other information in subsequent IEPs that give George's level at Corrective Reading?
ATTORNEY CLARK:
Well, first of all, I want to object to the question, because it isn't incumbent on the Hearing Officer to rule based only on the documentation. It's the Hearing Officer's duty to rule based on all the evidence, some of which may be testimonial. So I am objecting to the question, the way it was phrased.
HEARING OFFICER:
I thank Counsel for helping me understand my job description. So I'll overrule the objection. I recognize that the record comprises both exhibits, documentary evidence and transcript, which is testimony given under oath. I think that the --- I think, though, the question

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is appropriate if, you know, the witness can supply an answer. Are you aware, outside of the references to B1 SRA Corrective Reading level RR 2005 of any other reference to that as --- to SRA Corrective Reading levels in IEP documents? That's the question you were asked.
A. No, I'm not aware.
BY ATTORNEY HUSIC:
Q. Do you know when the Corrective Reading program was formally discontinued?
A. At the end of eighth grade.
Q. Same exhibit, P-23, page nine, on the extended school year part, throughout this IEP and the ones following it, you were asked questions about the determination for extended school year. What appears to be absent in the IEPs is any progress monitoring that would have indicated regression or recoupment, as you testified to. Do you know if any exists?
A. Yes, there are progress reports.
Q. Not progress reports, but specifically progress reports that would have looked at regression and recoupment.
A. The IEP team would have looked at progress reports and determined over an extended period ---

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over the summer or over Christmas break they would have looked at those portions. But is there ---?
Go ahead. Sorry.
Q. That's oaky. But for this IEP, and I'll just cover it in one fell swoop anyway, the following IEPs, the data, if it was taken, is not included in any of the IEPs, is it?
A. The exclusive data, just from extended breaks would not have been cut and pasted to here, but the progress reports would have been discussed.
Q. Well, again, how is a person to know whether the IEP team really actually performed the data that was required to look at least one part of it, being the regression and recoupment, and to say that George didn't lose skills?
ATTORNEY CLARK:
Objection, rhetorical question. It's argumentative.
HEARING OFFICER:
I will sustain the objection. It is a rhetorical question, how would the IEP team do something. So as asked, the question is rhetorical and I'll sustain the objection.
BY ATTORNEY HUSIC:
Q. When the Hearing Officer reads the IEPs that's

pertaining to extended school year, is it correct he will not find any document that shows the progress or monitoring that was done for regression or recoupment during breaks?
A. If he looks at the progress reports during the duration of the IEP, he would see that. If he looked at specifically this page, page nine, no, he would not see that.
Q. Well, in this particular document then, can you show me where the progress exists that shows that the data was taken to show that George does not lose skills over breaks?
A. It would be in his progress report.
ATTORNEY HUSIC:
Let me see where the progress report is. Just a minute.
HEARING OFFICER:
P-18, the '07/'08 school year.
ATTORNEY HUSIC:
It would be on P-18.
BY ATTORNEY HUSIC:
Q. Can you point out specifically what data in here is directed toward extended school year determination?
A. We mainly look at the break between Christmas

and — well, the winter holiday break. So that's normally what we look at when determining ---. We sometimes occasionally look at Thanksgiving or anything that shows an extended break in educational services. So it would be --- on the goals it would be between the days of Christmas.
HEARING OFFICER:
If you're referring to a particular page, what page are you referring to?
A. I'm looking right now at 3, page 3 of 12. And we would normally look through like mid-December to mid-January.
BY ATTORNEY HUSIC:
Q. Well, if that's the case, if you look at December 9th of '07, the line is extremely high. And then subsequently, if you look at December 30th and January 6th, it's very low. Do you see those?
A. Uh-huh (yes).
Q. And then on January 13th it goes back up to the same level, yes.
Q. But you acknowledge there is a significant drop December 30th and January 6th?
ATTORNEY CLARK:
I don't think she testified that it

was significant.
BY ATTORNEY HUSIC:
Q. There is a decrease on December 30th and January 6th; correct?
A. I'm sorry. Between what two dates?
Q. January 30th of '07 and January 6th of '08.
HEARING OFFICER:
You mean December 30th?
ATTORNEY HUSIC:
December 30th, correct.
A. December 30th?
BY ATTORNEY HUSIC:
Q. Of '07.
A. Yes. And?
Q. January 6th.
A. I would have --- there's a slight increase right there.
Q. Increase of January 13th?
A. Uh-huh (yes).
Q. And the following week he drops again. Will you agree that George's progress shows inconsistency?
A. I would say his progress is high and low.
Q. Okay.
(Parents' Exhibits 24 and 25 marked

for identification.)
BY ATTORNEY HUSIC:
Q. At Exhibit P-24, 25, I'm just asking if you recall these exhibits being part of George's file?
A. I don't specifically recall them being part of his file.
Q. Do you know if during the eighth grade, the period of time when you were involved, whether the IEP team had a discussion regarding the treatment plans?
A. From the IEP team meeting, I remember discussing things such as TSS services, which this actually speaks to, if I'm remembering correctly, and his mobile therapist.
Q. This evaluation also includes a mathematics disorder. Would it be fair to say that the team would not have agreed with that?
A. If it was considered and not included in his IEP, I would have to say that they did not agree with that or they did not show data that would coincide with that diagnosis.
(Parents' Exhibit 27 marked for identification.)
BY ATTORNEY HUSIC:
Q. On P-27, this was an IEP review for George to

transition to high school. And why was that necessary to happen? Why was there a need for an IEP review?
A. Mr. and Mrs. Peiffer requested an IEP review at that time.
ATTORNEY CLARK:
What exhibit are you on?
ATTORNEY HUSIC:
P-27.
ATTORNEY CLARK:
Sorry.
BY ATTORNEY HUSIC:
Q. And why did they request that meeting?
A. Just to make sure that his ninth-grade year started off successful --- and his high school as successfully as possible.
Q. Did they have any particular concerns about high school?
A. Yes.
Q. And what were those concerns, to the best of your recollection?
A. That he would continue to use the laptop at home, that there would be an aide that would be checking on him, that he would have a period at the end of the day in order to get his homework

all together and to be organized. And I do believe --- I don't know if it says it in here, but we also talked about --- there it is, a meeting scheduled previous to the beginning of the school year with George, the Parents and teachers so that Mr. and Mrs. Peiffer would have an opportunity to go over any information they felt was important for the teachers to know about George before the beginning of the school year.
(Parents' Exhibit 30 marked for identification.)
BY ATTORNEY HUSIC:
Q. Now, turning to P-30, this is the agreement to waive the re-evaluation, considering that in 2005 there was no testing done at all of George, did you have any concerns that there was a request by Ms. Bingaman to waive this particular re-evaluation?
A. No.
Q. Did Mr. Bingaman seek your input into submitting this waiver to the Peiffers?
A. I don't recall that he did. I don't remember any conversations about it.
Q. Okay. P-31, starting at page five, I think this may have been referred to as a table.

BRIEF INTERRUPTION
BY ATTORNEY HUSIC:
Q. This is the first time in George's IEPs that this particular schedule was included; would that be fair to say?
A. That this format was included, yes, that's correct.
Q. Yes, the schedule of classes. And would you also agree at least with a timeline that the Standards classes were then instituted --- I guess became implemented in George's schedule around the beginning of October?
A. It was around mid-October. It was after the writing on this IEP.
Q. How did the --- well, let me ask you this. At this IEP meeting in October, was the District at that point contemplating removing George from the Computer Apps and Resource Room to put him in Standards classes?
A. At this IEP team meeting, no.
Q. Do you recall a discussion by the IEP team at that time that the schedule was included in George's IEP so that he would have the benefit of the Computer Applications class and the Resource Room?

A. This was discussed just as a reporting of grades in the present levels.
Q. So it's your opinion that this is not considered to be part of George's IEP?
A. The grades, the reporting of the grades at his present level of academic achievement is what was shown here, with a date, as of a certain date period, because sometimes at IEP meetings they would fluctuate and the Parents looked the morning before and the grade is different. So it's an explanation as to why grades might be different from present levels.
Q. But insofar as the classes themselves, they were not part of George's IEP?
A. The class with the grade was the reporting. So we always report the classes that the students are in and the grades, yes. And that's always part of the present levels.
Q. Did you consider these classes part of George's IEP?
A. These classes are the classes that George was enrolled in as of September 30th of '08 as a reporting of the grade that he was obtaining in that class at that time.
Q. Would it change if those classes --- a removal

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of those classes, specifically Computer Apps and Resource Room, would those be considered --- removal of Computer Apps and Resource and the substituting of Standards English and Math, would you believe — would you consider that to be a denial of FAPE?
A. No.
Q. Why not?
A. I would consider that changes in his class periods, but I would also say that specially-designed instruction and his goals were adhered to in his IEP at this time, regardless of the curriculum that was presented.
Q. Now, the IEP, at page eight --- the PSSA results that I'm looking at toward the bottom of the page, the District already had these results, obviously, because it's incorporated in the IEP; correct?
A. Correct.
Q. Well, having that knowledge, is it your testimony that this IEP team did not discuss removing George from Computer Apps and Resource Room to put him in the Standards classes?
A. That is correct.
Q. Did the change in George being placed in

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Standards classes come about suddenly?
ATTORNEY CLARK:
What do you mean by suddenly?
HEARING OFFICER:
Well, is that an objection?
ATTORNEY CLARK:
It's an objection. Vague question.
A. Sure.
HEARING OFFICER:
Ms. Sawyer has objected to the question.
BY ATTORNEY HUSIC:
Q. On October 2nd there was no discussion and, according to your testimony, there was no intent to move George out of the schedule that was listed in the IEP?
A. Correct.
Q. How did the process come about that you or someone from the IEP said that George was to be moved out of these two — out of his Computer Apps and Resource Room and then placed into Standards English and Math?
ATTORNEY CLARK:
Well, I'm going to object to the question because I don't know that it's been

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established yet that someone from the IEP had to do that.
ATTORNEY HUSIC:
Well, you know, then I'll rephrase.
BY ATTORNEY HUSIC:
Q. How did George get taken out of the classes? Who said it or how did it happen?
A. That occurred — basically the administration --- I do believe it was the high school administration, I think the guidance department, became aware that there was a large number of students that were supposed to be enrolled in the Standards classes based on their PSSA results and were not. And that occurred early October, mid-October. So that's when we determined that these students needed these courses. That's when we sent the letter out communicating that to the Parents.
Q. This isn't the IEP where George is --- backtrack that. I wanted to ask you ---. What is your understanding of the interaction between the IDEA and No Child Left Behind?
ATTORNEY CLARK:
I think that that calls for a legal conclusion, and I don't know that any witness is

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the right witness to be giving that answer. And I don't know that this witness is the right witness to be giving that answer.
HEARING OFFICER:
Do you have a response, Ms. Husic?
ATTORNEY HUSIC:
I do. What's at issue here is the appropriateness of George's program, which includes placements into Standards Math. And you know, we — while we're not asking the Hearing Officer, of course, to look at the Standards classes, we are asking that the Hearing Officer look at the appropriateness of George's placement. The problem is — and his program. I mean, in that, we can't overlook this mix or this nexus or this connection that the District just placed between whether a student receives FAPE and under the terms of IDEA versus the District's need, if you will, to ensure that a child is reaching adequate yearly progress and receives — you know, achieves a score of proficient on the PSSA scores. And it appears that those two interact, you know, possibly in this case not a very positive way. And I think it is very probative to see when you have a student, when you have George,

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who's sort of caught in the mix of IDEA versus No Child Left Behind.
HEARING OFFICER:
I will sustain the objection to the extent that the question, as asked, was broad, what is your understanding of the interaction. And I don't know that this witness' --- I don't know that the witness can answer the question or not. But regardless, I don't know that it is probative in that her knowledge of how those two statutes might interact I don't think gets to the provision of FAPE under the terms of an IEP to this student. I'm not saying --- and I recognize the issues you bring up. They are involved in perhaps resolution of the issues. I'm just saying that I don't think this witness can explain through the answer to that question how that forms the provision of FAPE to George Willoughby. And it may just be the way the question was asked because it is broadly asked. But regardless, I don't think the witness needs to tell us her opinion of the interaction of those two statutes in general, so I'll sustain the objection.
BY ATTORNEY HUSIC:
Q. Can you describe the interaction between

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George receiving FAPE versus George's adequate yearly progress?
ATTORNEY CLARK:
The same objection.
HEARING OFFICER:
I am going to overrule this objection because I think that that is a question the witness can answer, in her view, that is the interaction between George Willoughby's --- the provision of FAPE to George Willoughby and George Willoughby's --- the results that George Willoughby receives on the PSSA. I say that because at least to this point, I have heard about instruction in reading and mathematics that is geared towards --- or at least triangulated against PSSA results. So to that extent, I think it is a relevant question. And asked more specifically in terms of this student's education program, I think it's --- I think it's allowable. So you can answer the question.
A. Just to clarify, a student doesn't make adequately yearly progress, the School District does. So we basically give the Standards so that students are scoring proficient or advanced. That's the level that we want them to get to.

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with that clarified, putting students into those classes does not deny them FAPE. We make sure that specially-designed instruction and the instruction that they are receiving are appropriate for their instructional levels. If we have to modify that or accommodate for that or if there has to be a different type of pull-out situation for that student, we do that, but they are additional classes of language arts and math geared towards the Standards.
BY ATTORNEY HUSIC:
Q. What specially-designed instruction is geared toward Standards English and Math?
A. It would be any of the student's SDIs that the IEP team feels that are appropriate for that student. But those SDIs would also be carried out, such as study guides provided, those type of specially-designed instruction.
Q. Do you know if George currently gets study guides for his Standards classes?
A. I don't specifically know, because I'm not with him every day. I would say that if it's in his SDIs and it's covered by --- supposed to be in that location, yes, he would receive them.
Q. What level of observation or how much

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observation do you do of George's classes to ensure compliance with his IEP?
A. Do you mean observing George specifically?
Q. Yes, and including his teachers.
A. I don't do any kind of specific observations. The case manager does most of that. By the case manager, I mean Mr. Bingaman.
Q. From what I recall, Mr. Bingaman did not appear to have any special ed credentials; is that correct?
A. That's incorrect.
Q. There were some issues with Mr. Bingaman's credentials. Does he hold a special ed degree?
A. Yes.
Q. Is he certified?
A. Yes.
Q. He does not teach any special ed classes or he does?
A. He does.
Q. Okay. I don't understand the role of a case manager. How is that different from what you do?
ATTORNEY CLARK:
Objection. Beyond the scope of her testimony.
HEARING OFFICER:

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And do you have an offer of proof? I mean, I should say I'll hear an offer of proof.
ATTORNEY CLARK:
I'm just wondering if he's a full-time teacher and engaging in his own duties, how does he have time to really go out and observe George's program to ensure compliance?
HEARING OFFICER:
My recollection of Mr. Bingaman's testimony is that he explained his duties within the context of the District's special education process. So I think that --- I think that ground has been covered in terms of Mr. Bingaman's role.
ATTORNEY HUSIC:
Okay. That's fine.
HEARING OFFICER:
Yeah, so I'll ask you to move on.
ATTORNEY HUSIC:
Sure.
HEARING OFFICER:
I don't know that it's beyond the scope of Direct, but the offer of proof ---.
BY ATTORNEY HUSIC:
Q. During the testimony of the principal of the vo-tech, you were sitting here during that and you

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heard that they're not longer implementing the checklists at vo-tech.
A. Okay.
Q. There is no IEP review in the document that gave permission for that change to take place. Who was monitoring the non-compliance of vo-tech to that particular aspect of the IEP?
ATTORNEY CLARK:
Objection. Presupposes that there's non-compliance.
ATTORNEY HUSIC:
Well, that is non-compliance. It is in the IEP.
ATTORNEY CLARK:
That's an argument. You need to establish with the witness first whether it is non-compliance. She may not agree.
HEARING OFFICER:
Well, first of all, if it's just a linguistic or a semantic matter, then why don't we say non-compliance with the checklist, whatever that thing is? You know, whether or not people want to argue about what that means, non-implementation of the checklist, everyone agrees that's not happening. So let's refer to it

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as non-implementation of the checklist and then that way it's --- I don't think there's any dispute that it is being implemented at vo-tech, so it's a non-implementation of the checklist. Then that'll get us over the semantics.
ATTORNEY HUSIC:
Okay.
BY ATTORNEY HUSIC:
Q. Non-implementation of the checklist at vo-tech.
ATTORNEY CLARK:
What's the question?
ATTORNEY HUSIC:
Just a minute. I'm getting there. I just wanted to set the issue out there.
BY ATTORNEY HUSIC:
Q. Were you aware that that was not being implemented at vo-tech?
A. Yes, I was.
Q. Okay. There was no IEP review documentation that gave permission to have that modification, was there?
A. No.
Q. Okay. Who was monitoring that, the checklist and oversee that George's IEP is being implemented

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at vo-tech?
A. That would be the principal of vo-tech, and I always oversee the local education ---.
Q. Did you point out to the principal that there was non-implementation of a integral part of George's IEP?
ATTORNEY CLARK:
Objection. I would just object to the term integral.
HEARING OFFICER:
Well ---.
ATTORNEY HUSIC:
Well, I mean, I guess it's semantics. I will take out integral and talk about the checklist and --- you know.
BY ATTORNEY HUSIC:
Q. Did you notify the principal at vo-tech that she unilaterally chose not to implement a part of George's IEP?
ATTORNEY CLARK:
Well, if the word unilateral ---.
HEARING OFFICER:
Well, okay.
ATTORNEY HUSIC:
Well, I think the principal testified

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to that, ---
HEARING OFFICER:
Right.
ATTORNEY HUSIC:
--- that she did it unilaterally.
HEARING OFFICER:
I do recall that testimony, but regardless, if it inflames the District, I'm just more interested in moving on. So were you informed about the non-implementation?
A. I was in a meeting where we discussed it, and since the checklist is tied to progress monitoring, goal number seven. They basically said at that meeting that he was doing okay with all of this organization.
So that's when we --- George was there, Mrs. Peiffer and myself, and I believe the guidance counselor from over there, a regular education teacher and the principal that you were referring to. And we discussed not having to monitor his progress on that specific checklist anymore because he was doing those type of things and the reminders were adequate enough.
BY ATTORNEY HUSIC:
Q. And again, there was no IEP review that would

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follow that progress and document that change; is that correct?
A. There is no IEP review to reflect that because we didn't change his programming at all. We just weren't monitoring his progress at vo-tech.
Q. At P-31, on page 8, ---
A. Yeah.
Q. --- under the fluency goal you testified about George's progress over the years and the fact that he did not need extended school year because he did not regress or recoup material after a break. After reading this fluency statement, would you change your mind about George's ability to recoup and recover after a break or at least his consistency in performing on this particular goal?
A. No, because it says that he made progress; he just did not master it.
Q. And because of that, on page 13, his goal was dropped to 100 words as a result of that?
A. Correct.
Q. And this goal does not address in any error rates; does it?
A. The fluency read would be rate and accuracy, so within the accuracy portion, that would be the errors. So he has to read the word correctly in

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that minute in order to get credit. So if he made an error on a word within that minute, it would not count.
Q. On page 33, P-33. I'm sorry, P-33. Do you recall seeing this report from Penn State Hershey Medical Center?
A I recall receiving a copy. I don't recall ---.
Q. Okay. On P-33, page 3, ---
A. Yes.
Q. --- under the diagnosis of learning disability Doctor Tresher indicates concerns about anxiety. Did the IEP not agree with this neurologist that George may be experiencing anxiety?
A. I wouldn't necessarily conclude that. I would conclude that the anxiety disorder was not impacting his education. It does say here about a learning disability, but --- which would impact his education, but not necessarily anxiety.
Q. On page four, there's other recommendations. Now, there was quite a --- there was a lag in the point for the neuropsych, neuropsychological testing; correct?
A. What do you mean by a lag?
Q. From the time that Doctor Tresher made the

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recommendation on September 3rd to the point that George actually received the neuropsych eval.
A. It was about five months, maybe. We had unsuccessfully tried to find one before the review ---
Q. Okay.
A. --- provided that information.
Q. Okay. And you see recommendation number two where it's actually Doctor Tresher that recommends Doctor Krecko ---
A. Okay.
Q. --- to do the psychiatric. Would you agree with that?
A Yes.
Q. Okay. Do you know if the IEP team discussed the results of this evaluation at all?
A. I don't remember that specifically.
Q. Okay. At P-35 what I wanted to ask you, is this the letter that you indicated the District sent out notifying parents that their students or specifically that George would placed in Standards classes?
(Parents' Exhibit 35 marked for identification.)
A. Yes.

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BY ATTORNEY HUSIC:
Q. I don't see in this letter that anywhere it indicates that George would be removed from classes to go into Standards. So is this not the letter?
A. I'm not exactly sure if this is the letter or not. I know I was informed that a letter went out to students.
Q. Okay.
A. They also had a meeting. I was at the parent meeting, so I'm not sure the specific letter that was sent out to the parents.
Q. All right. That's fine. On P-37 I've kind of already talked about the evaluation, but I wanted to direct your attention to page 17 and 18 of P-37. This is the Parents' dissent. My question is, after this was provided to you, the notice of their dissent to the re-evaluation report, can you say how you addressed their issues listed here in correspondence dated April 28th, 2009?
A. I attached this to their dissent to the re-evaluation, and I notified our attorney, Frank Clark.
Q. Did the team reconvene to discuss their concerns, if you know?

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A. The re-evaluation team?
Q. Yes. Or the IEP team, to discuss their concerns listed in the dissent.
A. We discussed these at the August IEP meeting, or maybe that was another letter. No, we did not discuss these.
Q. The changes that the Parent requested, they list nine different points. Would it be correct to say that the multi-disciplinary team never issued another RR to incorporate their issues? Would that be fair?
A. That would be correct.
Q. Okay. On P-38, the Parents --- page 36, the Parents also indicated their concerns regarding the IEP. Was an IEP meeting convened after this, after their concerns to address those?
A. This was the letter I referred to before. Yes. We did address all of these in the IEP meeting. That was August 26th.
Q. On page 40 and 41, as of this NOREP on May 5th of 2009, or at least what would've been in effect then the following school year, half vo-tech and then half Fayette School, ---
A. Right.
Q. --- do you consider that full time learning

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support?
A. Yes.
Q. Does George receive any instruction in typing currently? With regard to George's issues ---?
A. No.
OFF RECORD DISCUSSION
A. No. Sorry.
BY ATTORNEY HUSIC:
Q. With regard to the various evaluators over time that indicated George has a learning disability in math, yet part of your Direct testimony, you focused on --- addressed the issue of George taking algebra in ninth grade. Do you recall that George also had algebra in eighth grade, so in a sense he repeated the same class in ninth grade?
A. In my understanding of the eighth grade curriculum, it's a pre-algebra class. And the ninth grade is algebra. Whether or not the specific content was the same, I am not aware of that.
Q. As the Director of Special Ed, how do you reconcile all these reports that we went through from the end of seventh grade to current that still say that George has a learning disability in

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math, but yet the IEP team never addresses that? As the director, how do you reconcile that?
A. I would reconcile that as we programmed for appropriateness within his math skills. So we don't necessarily program based on a specific label to a child, but we program based on the student's needs as evidenced through progress on their goals, as evidenced in teacher reports, as evidenced in assessments, as evidenced on information provided from all the team members, including their parents. So we take that all into account.
Q. Now, at P-39, that was the IEP meeting that we covered this school year.
ATTORNEY CLARK:
Excuse me. Are you at a break point?
ATTORNEY HUSIC:
Pardon me?
ATTORNEY CLARK:
Are you near a break point?
ATTORNEY HUSIC:
Yeah, you know, I'm sort of winding down here.
ATTORNEY CLARK:
Okay.

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ATTORNEY HUSIC:
If you want to ---.
ATTORNEY CLARK:
No, go ahead.
ATTORNEY HUSIC:
Oh, okay.
ATTORNEY CLARK:
I don't want to stop you if you're winding down.
ATTORNEY HUSIC:
Thank you, Mr. Clark.
BY ATTORNEY HUSIC:
Q. On P-39, that was a rather controversial IEP meeting. Do you recall that?
A. How would you define controversial?
Q. Okay. The Parent, if you recall, was not going to sign the NOREP, and at that IEP meeting the day before school was to start, the Parent was told that George would not be able to start vo-tech the next day. Do you remember that discussion?
A. Yes, I remember the discussion.
Q. Well, what I'm wondering is how is it that the District would justify taking away classes or courses in the previous year that had to do with

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computer apps and resource rooms substitute it with Standards, and then the following school year the day before classes was to start, the School District indicated that they would not permit George to go to vo-tech the following day? How do you justify those differences in what was going to happen?
A. I think they're two different issues. I think in ninth grade we had a mistake in the curriculum that we were providing so that we were still providing for his needs based on his IEP, but we had different curricular changes. And this IEP with the vo-tech, services would be delivered in a different setting.
It goes back to the transition goals and his outcomes, so vo-tech is an integral part of his tenth grade IEP. And the Standards classes and implementing those type of things was not an integral or a piece of his IEP in ninth grade. We still carried out --- in ninth grade we still carried out his IEP with the addition of the Standards classes.
But then this one, it would have to show that the education was being delivered at the Cumberland Perry Area Vocational Technical School,

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and it was a major portion of his IEP. And it continues to be a major portion.
Q. Right. Well, why the day before school was to start, the only part of the IEP that was not permitted to be implemented was the vo-tech part?
A. What do you mean by that?
Q. Well, at that meeting the IEP team discussed that if they --- if the Parent did not sign this NOREP, George would not be permitted to start vo-tech the next day.
A. I don't remember that being stated. I remember it being stated that if the Parents did not agree to a new IEP, we would revert to the previously agreed to one, and I remember having a conversation with you and Mr. Clark and our Hearing Officer at the time to discuss that issue. But it was my understanding, and it continues to be my understanding, if a parent doesn't agree with an IEP, it reverts to the last IEP that was agreed to by the IEP team and accepted by the Parent, which would be the October 2009 IEP in this case.
Q. But the Parent also did not agree with the implementation of the Standards.
ATTORNEY CLARK:

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I think now we're getting into argument. I think --- we are aware of the facts on this issue, and all we're establishing now is a difference of opinion.
HEARING OFFICER:
Yeah, I'll sustain the objection. I think it's been asked and answered. The answer to the question is, as I heard it, that without an agreed to IEP, the pendent placement is the last agreed upon placement.
BY ATTORNEY HUSIC:
Q. What goals and objectives made the August IEP much different from the April IEP? In other words, in your mind, what was so different between the April '09 IEP and the August '09 IEP?
ATTORNEY CLARK:
Well, let me just pose an objection. You mean the April 2009 IEP for which the Parents also rejected on the NOREP?
ATTORNEY HUSIC:
Correct.
ATTORNEY CLARK:
I'm not sure I understand where that question's going since we have an IEP that's not in effect. The witness has already testified the

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one that was in effect was the one from October of 2008. So that question should be comparing the August IEP versus the October 2008 IEP.

HEARING OFFICER:

Well, is the objection an offer of proof? I mean, I don't know what the objection is.

ATTORNEY CLARK:

Well, I think it's an improper question, because we're talking about --- well, Ms. Husic's question is premised on the, quote, April IEP, unquote, which is an entirely theoretical document, as I understand it, because it was never put into effect. So when she's asking what's the difference between the August IEP and another IEP, it ought to be the one that was saying in effect.

HEARING OFFICER:

Well ---.

ATTORNEY HUSIC:

Well, my point is, if I could respond, is that I would say virtually there is very, very little difference. And what happened basically, our offer of proof, is that the Parents were compelled to sign the August IEP, which

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represents very little difference from the one they rejected only four months earlier, because George would've not been permitted to attend vo-tech.

HEARING OFFICER:

Well, give me a second. I'm going to overrule the objection, but answer the question --- this question if you would. If the IEP in April 2009 was appropriate in the eyes of the District as offered and the IEP in August 2009 was appropriate in the eyes of the District as offered, what is it --- what accounts for any differences between those two IEPs from the District's perspective?

A. From the District's perspective, the only differences we made were the ones as outlined from Mrs. Peiffer's letter as to why she didn't agree with the IEP. So we went back in August, discussed those matters, added things such as the Earobics, those type of things that she had brought up as an issue, and we added those things, and that was the difference.

HEARING OFFICER:

So there should be no difference between the IEPs upon examination outside of what

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the family voiced in terms of its letter?

A. Correct. There's numbering of goals, there's --- I think we added a different language, speech. But you can tell from the IEP dated in August, it's the handwritten notes except for a few in here that Mrs. Peiffer made herself.

HEARING OFFICER:

Oh, okay. I'm interested in reviewing the documents, and I want to understand your testimony. Your testimony is that the only changes in substance made to those two IEPs were at the behest of the Parents?

A. Yes.

HEARING OFFICER:

And that the District's program, in effect, remained largely the same in terms of what it was proposing to offer through the IEP?

A. Yeah.

HEARING OFFICER:

I think that answers the question ---

ATTORNEY HUSIC:

Okay.

HEARING OFFICER:

--- between the two documents, from my perspective.

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ATTORNEY HUSIC:

Okay. I don't have anything further.

HEARING OFFICER:

Okay. Is there any Redirect?

ATTORNEY CLARK:

Yes.

HEARING OFFICER:

Let me ask it this way. How brief is it going --- is the Redirect going to be?

ATTORNEY CLARK:

Well, I'm pretty confident it will be less than 15 minutes.

HEARING OFFICER:

Okay. Here's the situation. It's 2:35. I will give you 15 minutes, and then you'll have 10 minutes on Recross so we'll be done with this witness by three o'clock.

ATTORNEY CLARK:

Ready?

HEARING OFFICER:

Yes, yes. Thank you.

REDIRECT EXAMINATION

BY ATTORNEY CLARK:

Q. With regard to Exhibit P-39, you were asked questions about the checklist and its, quote,

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non-implementation, unquote, at Cumberland Perry Vo-tech. To what extent, if at all, was that checklist specially designed instruction for George?
A. It was not.
Q. What was it?
A. It was to measure the progress on a goal, number seven, where it's indicated. It's called a daily checklist, there attached.
Q. With regard to Exhibit P-37, pages 17 and 18, that's the April 28 letter, objection letter from the Peiffers.
A. Uh-huh (yes).
Q. As you read this letter, did she provide any information to really change the outcome of the re-evaluation report?
A. No, she just wanted copies of certain, like, things, like the OT alphabet test and observation and then the review of handwriting samples. So she was requesting certain documents. There's also, I think, a term that one of the teachers used that we were supposed to take out of the document that we discussed at the re-evaluation meeting. However, it wasn't taking out of the documents, so ---.

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BRIEF INTERRUPTION
HEARING OFFICER:
You were kind of cut off in your answer, and I apologize for that announcement, so did you have anything to complete your answer?
A. I don't think. I was just saying that there was a teacher comment that we wanted taken out because it was inaccurate, and we forgot to take it out of the final copy of the document.
BY ATTORNEY CLARK:
Q. Anything else?
A. No, the rest was all ---.
Q. You were asked questions about several evaluations, and I want to kind of go through them. Okay. P-33.
(Parents' Exhibit 33 marked for identification.)
A. Yes.
BY ATTORNEY CLARK:
Q. Do you recall having received this in the context of the re-evaluation report?
A. Do you mean receiving this ---?
Q. Okay. It's dated September 3, 2000?
A. Correct.
Q. Did you physically receive this as part of the

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re-evaluation report?
A. No.
Q. Do you recall if you received it before the re-evaluation?
A. Yes, I received it before.
Q. Okay. Did this document provide any data from which you could conclude that George had a specific learning disability in mathematics?
A. No.
BRIEF INTERRUPTION
BY ATTORNEY CLARK:
Q. P-25, page one includes a diagnosis of 315.1, mathematics disorder. Was there any testing data that supported a finding of the mathematics disorder included with this report?
A. No, there was not.
Q. Was there any testing data that included that George had specific learning disability in math in this report?
A. No, because this clinician --- only a licensed school psychologist can make a specific learning disability determination, and since he was not, that was all he could point out and there wasn't any data to coincide with his diagnosis on the disorder.

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Q. Okay. P-24, page 1 shows, again, a diagnosis of mathematics disorder. Was there any data to support a diagnosis of the mathematics disorder?
A. Yeah, that was in the report.
Q. Was there any testing data in this document to support a specific --- a finding of a specific learning disability in mathematics?
A. No.
Q. Exhibit P-21, was there any testing data in this report to support a diagnosis, and I think it's listed on page six, of a mathematics disorder?
A. No.
Q. Was there any testing data to support a finding of a specific learning disability in mathematics?
A. No.
Q. Exhibit P-20, P-7.
HEARING OFFICER:
Page seven?
BY ATTORNEY CLARK:
Q. Page seven, I'm sorry. P-20, page 7 lists a mathematics disorder. Is there any testing in this document to support that finding?
A. No.

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Q. Is there any testing in this report to support a finding of a specific learning disability in mathematics?
A. No.
Q. With regard to Exhibit P-18, page 3, you were asked some questions about the sequence in the data points between December 16th, 2007 and January 13th, 2008. Did you see any evidence within that period of time with what you would regard as regression?
A. No, his scores or reading fluency did go down, but not where they --- they went right back up, and actually a higher level than they were before as of January 13.
Q. And they were trending downward before the break, wouldn't you agree?
A. Yes. Within that break, so they came back.
Q. One more question on this. Would you conclude from that segment of time that there was a failure on George's part to recoup information previously learned?
A. No.
HEARING OFFICER:
About five more minutes, Mr. Clark.
ATTORNEY CLARK:

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No more questions.
HEARING OFFICER:
Okay. Do you have any questions, Ms. Husic, over the remaining ten minutes or so on Recross Examination?
ATTORNEY HUSIC:
Very briefly.
RECROSS EXAMINATION
BY ATTORNEY HUSIC:
Q. You were asked about the checklists at P-39, and that remains as George's goal number seven; correct?
HEARING OFFICER:
Yes or no?
A. Yes.
BY ATTORNEY HUSIC:
Q. And part of the compliance with that goal is it has to implemented by the vo-tech; correct?
A. It's used as a monitoring tool, so if they're not using that tool, then we can't monitor how he's doing on his organization checklist.
Q. But the vo-tech personnel are not excused from implementing goal number seven; is that correct?
A. That is correct. They were just saying that they don't need the checklist in order for George

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to appropriately get himself ready for the two vo-tech classes that he has.
Q. Are you aware that if the Hearing Officer finds that to be an area of noncompliance, the District will be held liable for the vo-tech's non-implementation of that goal?
ATTORNEY CLARK:
Objection. I fail to see how that question has any benefit in advancing the factual inquiry in this case.
HEARING OFFICER:
I'll sustain the objection. It's not appropriate.
ATTORNEY HUSIC:
Okay.
BY ATTORNEY HUSIC:
Q. On P-37, number 17, page 17, what I'm looking at is the big paragraph which is actually the second paragraph. And the very last sentence that starts, we restated at the meeting --- I'm assuming the Parent is meaning the RR meeting --- the importance of including the recommendations from Doctor Grisolano into George's IEP and left expecting to reconvene to finalize the re-evaluation meeting. Did that clarify for you the

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Parents' intent that they felt they were coming back to another re-evaluation meeting to address Doctor Grisolano's report?
A. Yes, and that was the correct direction that the District was also headed, because we hadn't received a copy of her final report as of April 28, 2009.
Q. So when did you finally consider Doctor Grisolano's final report?
A. We received it April 29th at the IEP meeting. And up unto this point, we haven't had a meeting to consider his full evaluation. However, the IEP team has had copies and has the recommendations. Also, Doctor Grisolano had some attachments there that the teachers are also aware of. Yeah.
Q. My last question, on P-18, page 3. You were asked on Redirect a question of sequencing of events and whether you saw regression. You indicated a sort of a recoupment of skills, but then if I direct your attention to the period of time starting with February 3rd of '08, February 10th, February 17th, February 24th, March 2nd and March 9th, would you agree with me that those --- some of those dates in there are periods of regression that are far below the points that were

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identified in December?
A. Yes, some of them are lower.
Q. And how do you explain what happened during that period of time?
A. I wouldn't be able to.
ATTORNEY HUSIC:
Okay. I don't have any further. Thank you.
HEARING OFFICER:
Okay. I have two questions for you, Ms. Sawyer. And the first is in the other book, actually, S-24, page 5. And it came up specifically in your testimony about this exhibit, although the other exhibit we had of P-18 on page 3, which is open in front of you, the graphical representation of progress monitoring. I think you testified that the graphs were produced by an Excel spreadsheet; is that correct?
A. Yes.
HEARING OFFICER:
And is that Excel spreadsheet designed by Susquenita?
A. No.
HEARING OFFICER:
No. It's part of a package that you

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purchase?
A. Yeah.
HEARING OFFICER:
I believe you testified that, and this came up particularly on page 5 of S-24, that when data was not produced over a certain period that a score of zero was assigned; is that correct?
A. I did testify to that.
HEARING OFFICER:
Yes.
A. On further understanding of that, that is not true. It takes the data points. This is my understanding. It takes the data points and it's the average between the data points, so ---.
HEARING OFFICER:
So it's an average of reported data?
A. Yes, that is my belief, but I could be wrong on that.
HEARING OFFICER:
And I think the point of my question is that if it were to average in a score like zero — substantive score of zero for data goals that were actually collected, that that would be an inaccurate report of progress, would it not?

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A. Yes.
HEARING OFFICER:
Okay. And then in terms of the waiver of the re-evaluation, I believe you testified that you did not recall whether or not Mr. Bingaman had spoken with you about the waiver issue. That's my recollection of your testimony.
A. Correct.
HEARING OFFICER:
In course of the normal practice, would that have been --- would it have been his decision to make to offer the waiver, or would that have been someone else's decision?
A. That would've been a discussion between --- the LEA and normally the case manager discusses that with me and the Parent. So that would be a discussion between all of those and the IEP --- essentially the IEP team members, if they have any impact on it. I don't remember specifically having that discussion with Mr. Bingaman.
HEARING OFFICER:
So normally the point of waiver would've been a team discussion, a team process?
A. Correct, correct. He would've gotten information from all the other teachers and the

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teacher previous, because I do believe that was in September. And so we would've — he would've had a discussion with the middle school teachers, as well.
HEARING OFFICER:
Right. And then having gathered that information, and I'm talking here about a normal --- this is the normal process; is that correct?
A. That is correct.
HEARING OFFICER:
Okay. So having gathered that information, the case — the case manager, having gathered that information, would then consult with you as the Director of Special Education; is that correct?
A. Correct.
HEARING OFFICER:
And the Parent at the same time?
A. Yes and no. It happens both ways.
HEARING OFFICER:
Okay. So the end result on waiver is communication between you and the case manager, the case manager and the Parent, and potentially all three of you, but certainly those. And I think Mr. Bingaman had testified that it took

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place in two separate conversations?
A. Yes.
HEARING OFFICER:
And ultimately the disagreement of any one of those individuals about waiver would mean that the re-evaluation would go forward ---
A. Correct.
HEARING OFFICER:
--- as normal?
A. Correct.
HEARING OFFICER:
I don't have any more questions for you, so thank you very much for your participation. We're off the record.
OFF RECORD DISCUSSION
HEARING OFFICER:
We're on the record. Doctor Sheats, you've been here for the entirety of the proceedings, have you not?
DOCTOR SHEATS:
Yes, sir.
HEARING OFFICER:
Okay. So you've heard my instructions to every witness, and I'll ask you to bear those in mind as you testify. The court

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reporter will swear you in at this time.

DOCTOR DANIEL W. SHEATS, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION
BY ATTORNEY CLARK:
Q. Would you state your name for the record, please?
A. Daniel W. Sheats, S-H-E-A-T-S.
Q. And you're Doctor Sheats?
A. Yes.
Q. You are currently the superintendent of the schools at the Susquenita School District?
A. That's correct.
Q. And you've been in that position for how long?
A. Four years.
Q. Al right. I want to ask some questions about your background. I want to start with your educational background, that is, where you got your degrees, not your teaching certificates, but your degrees.
A. I have a BS from Lock Haven University. I have a Master Degree from Penn State University and a Doctorate --- a research-based Doctorate at

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the University of Maryland.
Q. And your Bachelor's Degree was in what area?
A. Education, specifically in elementary education.
Q. Your Master's Degree was in what?
A. It was in education with a concentration in curriculum and instruction.
Q. And your Doctoral Degree was in what concentration?
A. Education with concentration in curriculum and instruction.
Q. What certifications do you hold in the Commonwealth of Pennsylvania?
A. Within the Commonwealth, a regular education teacher, special education teacher, principal certification, assistant superintendent, superintendent letter of eligibility.
Q. Does your certification --- does your Pennsylvania certification include a certification authorizing you to supervise programs in special education?
A. Yes.
Q. Do you hold any certifications from outside the Commonwealth of Pennsylvania?
A. Yes. In the State of Maryland I am certified

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in regular education, K-8, supervisor, special education, elementary and secondary principal, and I would be eligible for superintendent certificate. When I left the State of Maryland, I had been trained --- I had the coursework to serve in the capacity of a psychometrist. I did not do the internship, I believe, to get into the doctoral program.
Q. What do you mean by the term psychometrist?
A. I could give the standardized tests, but I could not serve in the total function of a school psychologist.
Q. Have any of your Maryland certificates lapsed since your absence from Maryland?
A. I don't know the answer to that.
Q. Okay. What's your work experience in the area of public school administration?
A. I've been the superintendent for seven years, assistant superintendent for three. I have supervised special education programs for last --- well, it depends on what capacity you look at --- maybe total about the last 24 years. I've served as a high school principal.
Q. For how many years?
A. For three years, and elementary principal for

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six. I served as a head teacher, as a gifted education teacher, a special education teacher and a regular education teacher.
Q. Now, you were formally employed by the West Shore School District prior to coming to Susquenita?
A. That's correct.
Q. And what positions did you hold?
A. I was Director of Pupil Services.
Q. What did that entail?
A. I was directly responsible for everything but regular education. I supervised psychologists, school security and safety, nurses, guidance counselors and all of their special education programming.
Q. And how many years were you in that role?
A. Twenty (20).
Q. Do you have any experience teaching in higher education?
A. Yes, I've taught classroom management. I've taught assessment and statistics.
Q. Is that two classes or three classes?
A. The assessment class is a class and statistics --- statistics for teachers is another class.
Q. What does the assessment class entail?

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A. Testing.
Q. And what does the statistics class entail?
A. The interpretation of those tests.
Q. In what universities or institutions have you taught those classes?
A. I taught at Washington College, University of Maryland and Penn State University.
Q. Washington College is in the State of Maryland?
A. Yes.
Q. Have you taught those classes at the undergraduate --- I'm sorry. The classroom management, the assessment and the statistics classes, did you teach them at the graduate level, the undergraduate level or both?
A. The management class was the undergrad level. The assessment and statistics was graduate level.
Q. And over how many years did you teach those classes?
A. Probably at the different facilities six or eight years.
Q. In your role as Superintendent at Susquenita, are you the chief school administrator?
A. Yes.
Q. In that capacity, are you familiar with the No

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Child Left Behind requirements?
A. Yes.
Q. Can you describe them briefly, what they are?
ATTORNEY HUSIC:
I'm going to raise an objection. When that was asked previously of Ms. Sawyer, the objection was that it --- you know, it calls for a legal interpretation or analysis of the regulations. And I would assert that --- with all due respect to Doctor Sheats, that it would be the same offer of proof that, you know, he would not --- you know, would not be in a position to make a legal determination about the No Child Left Behind.
HEARING OFFICER:
Mr. Clark, what's your response?
ATTORNEY CLARK:
Sure. As the chief school administrator, he can testify about the extent to which he's obligated to implement the No Child Left Behind requirements and what they are.
HEARING OFFICER:
Yeah, I'll ---.
ATTORNEY HUSIC:
Well, we'll stipulate that the

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superintendent is in charge of doing the --- you know, implementing the No Child Left Behind. I don't think that's an area of dispute.
HEARING OFFICER:
Okay. So the stipulation is that as the chief administrative officer in the District, Doctor Sheats can testify to its implementation of No Child Left Behind requirements?
ATTORNEY HUSIC:
We'll stipulate that that's what he would testify to without having to go into his testimony.
HEARING OFFICER:
Well, yeah, I mean I'll accept the stipulation that in terms of this District's implementation of No Child Left Behind requirements, Doctor Sheats has the ability to speak to that. So we can go to more specific questions.
ATTORNEY CLARK:
Okay.
BY ATTORNEY CLARK:
Q. How are the No Child Left Behind requirements implemented at Susquenita?
A. Well, they're implemented at the direction of

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the Department of Education, Pennsylvania.
Q. And what direction do you get from the Department of Education?
A. Well, basically, for example, the Chapter 4 regulations pretty much indicates these are the things that we need to do in order to be in compliance.
Q. When you talk about the Chapter 4 regulations, you mean Chapter 4 regulations from the Department of Education?
A. That's correct.
Q. At 34 Pa. Code?
HEARING EXAMINER:
Twenty-two (22).
BY ATTORNEY CLARK:
Q. Twenty-two (22) Pa. Code, I'm sorry.
A. Yeah, the subjection specifically --- well, I won't talk about it until I'm asked.
Q. Well, what do the Chapter 4 requirements do?
A. Well, Section 4.24 are the graduation requirements. And those requirements indicate through 2013, 2000 --- 2013, '14 that all of our local assessments, as well as the state assessments must be based on the standards of the Pennsylvania standards. And actually by 2014 the

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graduation requirement is that students have to be proficient in order to earn graduation. That's what they currently say.
Q. And you covered two topics at this point. First of all, what do you mean by the Pennsylvania standards?
A. Well, basically the Pennsylvania standards were established when the PSSAs were established. What ended up happening is they brought a significant number of Pennsylvania educators together to establish face validity of the test that was established. And so the educators might be able to agree that a given question was taught within the curriculums, but they couldn't agree on when it was taught in the curriculum or that they didn't have representatives from all 501 school districts.
So they could not say that it had a 1.0 face validity, meaning that everything that was asked in the test was based on the criteria --- the PSSA is a criteria reference test, meaning that everything that is asked within the PSSA has been taught to the students. Because they could not agree that every school district taught everything that was being assessed, they then developed a set

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of Pennsylvania standards and school districts were required to have their courses and their local assessments in line with those standards.
Q. So standards are basically curriculum requirements?
A. Yeah, so --- yes. And that's a little unusual, because in Pennsylvania, school districts have the right to establish their own curriculums. But the State has said, yes, you can do that as long as it --- as long as it includes these standards.
And even before they established the standards, they pretty much set forth the anchors. So the anchors are the broad base and the --- for lack of a better term, the anchors are the broad base or the base of the hand, and the standards are more like the fingers of the hand to reach out and take in this all-encompassing, these various encompassing areas.
Q. Okay. Now, you mentioned PSSAs and proficient. Let me start with PSSAs. What are they?
A. What are the PSSAs?
Q. Yeah.
A. They are the tests that have been established

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by the State of Pennsylvania, and they were originally developed by the State. The test questions are no longer developed by the State. They're developed by a company called DRC, but they actually assess what students have been taught through the eleventh grade.
And there are standards in reading and there are standards in mathematics that are actually assessed on the PSSA. And there are also writing standards and we also have, now, science standards, and social studies standards are coming.
Q. Now, you used the word proficient. What does that have to do with this?
A. Well, No Child Left Behind requires that all children score proficient on a state based test by 2014. And there are four basic levels that have been established in Pennsylvania: proficient, basic, below basic and virtually advanced.
Q. So the goal is to have students at proficient?
A. All students are to be proficient by 2014 is what the federal standards say.
Q. And how frequently are the PSSAs administered?
A. Well, PSSAs are administered every year. They are administered in third, fourth, fifth, sixth,

seventh, eighth grade and eleventh grade.
Q. But not in twelfth grade?
A. They are not --- well, that's not exactly true, because twelfth graders now have an opportunity also by choice. It's an option. They can take a retest on the --- as seniors in the twelfth grade year for PSSAs. They aren't required to. All public school students, though, are required to take the PSSA tests in those various grades.
Q. You've been present for the testimony and you've heard the term AYP used. What is it and what does it mean?
A. Well, AYP is average yearly progress, and average yearly progress ---.
Q. Average or adequate?
A. Average yearly progress.
Q. Okay.
A. Well, you can say adequate. They use them interchangeably, but it's the standards that are established for school districts. They're not established for individual students. They are established for school districts and groups of 40 or more in a given category.
Q. And what determines AYP?

A. You actually are taking the individual testing scores that the students produce, and then you have to show the adequate yearly progress from one year to another with the various groups within the district. You have to show them by grade, by school, by socioeconomic status, by special education grouping if you go more than 40 students. So it's individual test scores providing a composite for the School District.
Q. And you used the term earlier today criteria based test.
A. Correct.
Q. What is that?
A. Criteria based test is that nothing is asked on that test unless the children have been taught those skills or those concepts. And that differs from an achievement test, where an achievement test, there's no premise that what you're testing or the skills and the knowledge that you are testing, that the students in any way have been taught that material.
Q. So you wouldn't call the PSSAs an achievement test?
A. No, absolutely not. They are not achievement tests.

Q. As the chief school administrator at Susquenita, what's your specific charge with regard to making certain that your schools reach AYP?
A. Well, I have a legal requirement that my students will all make AYP by 2014. That's if No Child Left Behind is reauthorized, which we're not quite sure right now where that stands. But the State of Pennsylvania has adopted that same standard, and so we have an obligation to prepare our students to be proficient. And by '13, '14 that is a requirement for everyone.
Q. And as the chief school administrator, do you have a more specific charge about how to obtain that result?
A. Yes. It's my responsibility and the administrative team within the School District to make recommendations to the Board of School Directors as to how we are going to reach that standard.
Q. And how is that being done?
A. Well, actually, here the Board has adopted the premise that any student, once they enter the high school --- and I'll speak specifically to that first. Once they enter the high school that if

they --- if they have not scored proficient on the PSSAs, then they are obligated to take a Standards class, which I've heard a lot of talk today about it being Standards English, but it's really --- we offer the reading within the English program. But they have to have --- they have to be proficient in reading and they have to be proficient in mathematics.
Now, we also --- since the School District is judged on whether or not the students from grade three through grade eight are making AYP to meet that 100 percent proficiency standard, we also have done various things to the curriculum and the courses at the middle school, as well, which are Standards based.
Q. As the superintendent, did it come to your attention that there was a failure to create time for students in last year's ninth grade class to take Standards courses in English and in math?
A. Yes.
ATTORNEY HUSIC:
I'm going to raise an objection. There was no foundation as to how the particular question to this witness actually came about.
HEARING OFFICER:

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Well, I think in a sense it is a foundation question. Did it come to your --- did you become aware?
ATTORNEY CLARK:
Okay.
HEARING OFFICER:
So ---.
ATTORNEY CLARK:
I accept that.
HEARING OFFICER:
Well, no, I mean I'm saying the question was allowable, so I'll overrule the objection, because the question as I heard it was, did you become aware, and the answer was, yes. I think that's a foundational question.
BY ATTORNEY CLARK:
Q. When did you become aware?
A. Well, that was a charge that I was given when I was hired here as superintendent, that we would bring all of our schools into AYP compliance.
Q. Okay. But did you become aware in last year of the 2009 --- 2008-2009 school year that there were students at the high school who were not taking --- who were scored below proficient and who were not taking Standards courses in English

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or math?
A. We actually had implemented the requirement that all students that had not made AYP or had not made --- had not scored proficient, we had actually made the decision during that summer that the Standards classes would be implemented in ---. Well, I originally went to the high school to inquire as to are all the students in the Standards classes that are supposed to be there? And I was told, yes, that's the case. Approximately six weeks later I became aware that there were students up the high school across all grade levels that were not in Standards classes in compliance with what the Board had directed.
Q. I want to go back a step from here. With regard to the Standards classes, were there any particular requirements about students at vo-tech and their attainment of proficiency?
A. Students that intend to go to vo-tech here, because of the limited number of classroom hours that they have at Susquenita, the Board had actually established a policy that if you could not meet the requirement hours as far as working towards proficiency, that in order to go to vo-tech, you had to commit to a fifth period at

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Susquenita. And years before that they were only --- students were only required to do four periods here and technically four periods at vo-tech. Didn't work out quite neatly and cleanly as that.
But the vo-tech students, it's always been very problematic that they could meet the graduation hours and go to vo-tech and be a half time student here after --- after their sophomore year. So the Board passed the policy that --- because they were very, very much concerned about students becoming proficient --- that if you did not agree to a fifth period here to get the Standards classes in, or that you could agree to a fifth period or you could agree to an after school period to basically clock the hours for the Standards classes.
Q. So to go back, when you learned that there were students across all the grades who were not proficient and who were not taking a Standards class, what action was undertaken, actually directed?
A. I actually directed the high school principal to work with the counselors at the high school to give me a detailed list of who those students were. After we determined exactly who those

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students were, there was a letter sent to the parents of the students explaining that there was an oversight in scheduling.
There were students that were not taking Standards classes that should have been in the Standards classes. We offered a parental meeting for that, and we also met individually with various parents if they were not able to make the group meeting.
Q. I want to turn your attention in the packet of exhibits right in front of you to Exhibit P-35. This exhibit is a letter dated October 29, 2008 from the high school principal, Doctor Jones. Is that the letter you just described?
A. No.
Q. So the letter you just described has different content than what we see here in Exhibit P-35?
A. That's correct. This one doesn't say anything about the scheduling issue. I think just basically, looking at this letter, this just appears to be notification of student scores.
Q. So there was a separate communication that went out to parents of students who are not proficient and who were not taking a Standards class?

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A. That's correct.
ATTORNEY HUSIC:
Mr. Hearing Officer, I would like for purposes of this hearing to see a copy of that letter. I'm assuming if it went to George, a copy was probably placed in his file. And we would like to have a copy of that letter provided to determine the contents of the letter.
HEARING OFFICER:
Well, would such a letter be part of the student's educational records at the District?
A. I don't know that there would be a specific letter in each individual student's file, but there would be a --- there would be a generic letter that was sent to students. I don't know the answer to that absolute.
HEARING OFFICER:
Because this letter is addressed specifically to the parent or guardian of George Willoughby.
ATTORNEY CLARK:
P-35 is you mean?
HEARING OFFICER:
That's correct. P-35 is, the letter, the letter --- let's call it the scheduling

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letter, the letter that addresses students' schedules. Are you aware of whether or not that went directed to a specific individual?
A. Well, I assume that it went to a specific individual, but I don't know that it was specifically addressed to the parents of whomever.
HEARING OFFICER:
I mean, I don't know that I have a foundation to order it except for the fact that the lack of the letter goes to the --- it goes to the weight, probity and credibility of the assertions.
ATTORNEY HUSIC:
Well, I think it's important under these circumstances, because the Parent indicated that she did not see the letter, was not aware of the meetings that had taken place. And you know, I think because this is, you know, a significant issue, you know, I think it's important to have that particular document be produced.
HEARING OFFICER:
Well, I'm not going to order the District to do that.
ATTORNEY CLARK:
I'm not opposed to producing that ---

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HEARING OFFICER
Well, let me ---.
ATTORNEY CLARK:
--- to the extent it exists.
HEARING OFFICER:
Well, let me say this.
ATTORNEY HUSIC:
Well, that's an issue, if it doesn't exist. I mean ---
ATTORNEY CLARK:
No, it's not.
ATTORNEY HUSIC:
--- you know, because of ---.
ATTORNEY CLARK:
Well ---.
ATTORNEY HUSIC:
Well, it is. I mean, Doctor Sheats testified that a letter went out. Mr. Clark says, if it exists. You know, either it does or it doesn't. You know, there's not ---.
HEARING OFFICER:
Well, this gets to the point --- this gets to the heart of the controversy. I don't think there's an if about it. The witness has testified that there was a second letter and that

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this is not --- that P-35 is not that letter. So I don't think the existence of the letter is in dispute.
What seems to be in dispute is to whom it was addressed and when it was sent and the exact contents of the letter. To the extent that --- again, the witness can't address those specific factors. This witness can't address those factors. It just means that we rely on the testimony, but the lack of --- how do I want to say this? Testimony about a document that is known to exist and was not produced is given the weight that it should be accorded. So I'm not going to order the District to produce the letter.
ATTORNEY CLARK:
Was that an objection to a question or --- I don't recall ---.
HEARING OFFICER:
Well, I heard it as the request that I order document production from the District. I will tell you, that's how I heard it. You don't have this letter, and I want to see this letter, so I'm moving that the District does not have to produce a letter.
ATTORNEY CLARK:

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I understand that.
BY ATTORNEY CLARK:
Q. After the letter went out, Doctor Sheats, did you and other administrators make yourself available for meetings with the families?
A. Yes, there was one large group meeting, and then a number --- the letter did not come out of my office. It came out of the high school. There was one group meeting that Doctor Jones and I chaired, for lack of a better term, and then significant numbers of telephone calls and individual meeting with parents.
Q. And did you meet with the Peiffers regarding this issue?
A. Yes.
Q. Do you recall when?
A. I base --- what I recall is I received a letter from --- or an e-mail, I believe it was, not a letter, from Mrs. Peiffer, asking for a meeting to discuss the Standards class.
Q. And did you agree to a meeting?
A. Yes.
Q. And who took part in the meeting?
A. Doctor Jones, Mrs. Sawyer, Mr. Bingaman. There were a couple of high school teachers. I

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don't remember exactly who was at the meeting. Mr. and Mrs. Peiffer. That's as many as I can remember that were there.
Q. Okay. And you earlier described this as an oversight?
A. An oversight, yes.
Q. Did you communicate that to the Peiffers?
A. I don't know that we discussed that at the meeting. I know at one point or another that was provided to them. Well, yes, I do know that I addressed that, because at that meeting, it was about --- I'm relying on memory. It was about ten weeks into the semester. I actually offered at that meeting to provide compensatory education for the ten weeks or whatever level of weeks that were not provided to their son.
Q. And why's that?
A. Well, I just thought it was fair. Plus, I also --- we have to clock 120 hours in order to provide students with credit for a course.
Q. So you have to clock 120 hours for a credit in Standards English?
A. Yes.
Q. And the same for Standards Math?
A. That's correct. Well, any course at the high

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school level, it's 120 clock hours.
Q. That would apply to each of the two Standards courses?
A. That's correct.
Q. And what was the Peiffers' response to the discussion about Standards courses?
A. Well, initially they wanted me to --- I don't know if waive is the right word, but they wanted me --- they wanted that their son would not be included in the Standards course. I told them, no, all students are required to be in the Standards courses.
Mrs. Peiffer's response was that you don't understand. Evidently you don't understand. My child is an exceptional student or a special education student or something to that affect. And I said, no, I do understand that that's the case. She indicated to me that her son would never be proficient and that special education students were not required to be proficient.
Q. Do you agree with that claim?
A. Absolutely not.
Q. Was the dispute resolved in your meetings with the Peiffers?
A. No, they told me they were getting an attorney

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and they would challenge that.
Q. Do you know the content of the Standards classes that were taught to George in ninth grade?
A. Can I specifically state them? Is that what you're asking?
Q. Do you know generally the content?
A. Yes, basically that the Standards classes ---.
ATTORNEY HUSIC:
Well, you know what? I'm going to --- I'm sorry, I'm going to raise an objection, because --- with this witness testifying to that, because prior testimony, we did have both Standards teachers here who offered that particular testimony. So this would basically be cumulative testimony from prior witnesses who were more appropriate and were George's direct instructors in the Standards classes themselves.
HEARING OFFICER:
Do you have a response, Mr. Clark?
ATTORNEY CLARK:
Well, I think we're going to spend more time debating the objection than the content of the answer. He's simply going to be tying the general content into the Pennsylvania standards. That's where I would expect him to go with his

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answer.
HEARING OFFICER:
Well, I think I'm going to sustain the objection, because I think Ms. Landers --- I do think Ms. Landers addressed that and in more --- and in detail and as a fact witness in terms of the instruction rather than in general, so I think it's been addressed by Ms. Landers.
BY ATTORNEY CLARK:
Q. Did you participate in the IEP meetings for George in the spring and summer of 2009?
A. I believe I participated in one meeting.
Q. And that would've been in August of 2009?
A. That's correct.
Q. Have you reviewed George's file materials?
A. Yes.
Q. Based on your knowledge of George and your knowledge of the content of the Standards courses, does a student --- does George benefit from being present in Standards classes?
ATTORNEY HUSIC:
I'm going to raise an objection to this witness answering that. The IEP team basically had no choice when the directive came down from the administration to put George in

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that, and I think that that's an IEP team decision.
Oh, you know, and if I may add one other point. You know, Doctor Sheats also indicated that, you know, I think in his charge as superintendent by the Board, there really appeared from the testimony that he did not have any discretion, you know, to excuse any students from Standards classes, either. So whether or not the materials were reviewed or it was determined appropriate for George, it appears the charge from the Board to Doctor Sheats is that it wasn't, you know, a matter of discretion, that students who were not proficient had to be put into Standards classes.
HEARING OFFICER:
Well, I'm actually going to sustain the objection, because I'm not so sure that the foundation's been laid that Doctor Sheats has the knowledge of the student that you assert. There's no doubt that he's been involved in these matters, but he attended one IEP meeting and that was, at least on this record, the last IEP meeting to have been held.
I just don't know that the foundation

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has been laid for him to make a --- to answer the question that was asked of him. So I'm going to sustain the objection, but as I heard it, it was for lack of foundation.
BY ATTORNEY CLARK:
Q. You read through George's file?
A. Yes.
Q. You've read his evaluation report?
A. Yes.
Q. You've read his IEPs?
A. Yes.
Q. You've sat through four days of hearing in this case.
A. Correct?
Q. You heard the testimony of Doctor Grisolano?
A. Right.
Q. The testimony from Mr. Klein?
A. Yes.
Q. The testimony from the Peiffers?
A. Yes.
Q. The testimony from George's teachers?
A. Yes.
Q. The testimony from Ms. Sawyer?
A. Yes.
Q. Based on what you have read and what you have

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heard in testimony, how would you describe George --- George's level or degree of impairment in the area of reading and language arts?
ATTORNEY HUSIC:
I'm going to raise an objection to this witness.
OFF RECORD DISCUSSION
BY ATTORNEY CLARK:
Q. In the areas of reading and language arts.
HEARING OFFICER:
And then the objection, again.
ATTORNEY HUSIC:
I don't think it's of any moment that Doctor Sheats sat through, you know, the testimony throughout the course of the due process hearing or whether he reviewed the file. You know, it comes down to an IEP decision.
He testified that there was one IEP meeting that he attended. I believe Doctor Sheats might've been even out of the country when some of this occurred. And this particular witness would not have any direct, one-on-one knowledge about George's abilities over the course of the years.
HEARING OFFICER:
I mean, having heard from every

professional that's worked with George directly over the past year or two, I --- I'll overrule the objection and you can tell me that you think the program is appropriate, so why don't we do it that way?

ATTORNEY HUSIC:

Well, you know, if I might say, it wasn't about the program. It was about the level of George's impairment and ---.

HEARING OFFICER:

Well, right, right, right. But the point of the matter is, I think the question gets to the provision of FAPE. And even with the litany that Mr. Clark gave, I don't know that this witness has the foundation to answer questions about his direct programming.

I mean, I can't --- I think it's a probative question. I think you can ask it, but I don't --- I doubt quite honestly the level of its probity. But I think he can answer the question based on the foundation that now has been laid. I think you can answer the question.

ATTORNEY HUSIC:

I would like a standing objection to that.

HEARING OFFICER:

That'll be fine. So what about his level of impairment?

A. His level of impairment --- I know George, could pick George out of a group of students. I have not worked directly with George, but I can tell you that had I not known this student, I would not have seen George in a social situation or in a group situation and been able to tell that he was an exceptional student.

BY ATTORNEY CLARK:

Q. And why is that?

A. Well, he interacts appropriately. Although I know that he has processing issues, I don't see extensive stoppages in his speech pattern. I know that he's been involved basically on grade level classes, in the area particularly of mathematics. It appears to me, based on everything that I've seen, the reading issues seem to be more problematic than what the mathematics issues are.

Q. Now, with your knowledge of George, what benefit does he get from being in a Standards English class?

ATTORNEY HUSIC:

I'm going to raise an objection,

because we already had witnesses testify to this exact issue before, and I don't know that Doctor Sheats would be the best witness to testify about George's benefit in these particular classes.

HEARING OFFICER:

Yeah, I'm going to sustain the objection for the same reason, in terms of the question as asked. What I see is a similar question asked about math, and that is Ms. Ruel has testified at length about both the instruction that she delivered and the benefit she sees as the person charged with his instruction, so I mean, I'll sustain the objection in that I think the record has already spoken to that through Ms. Ruel.

BY ATTORNEY CLARK:

Q. I want to turn your attention to Exhibit P-31, page 18. First of all, what are foresight tests?

A. Foresight are tests that are given to students to predict how well they're going to do in the PSSA, so they're prognostic tests.

Q. Okay. And when are the foresight tests given?

A. They're given four times a year. Some of the schools actually give them five times a year.

Q. Now, what do you mean by predictive tests?

A. Their sole purpose is to serve as the baseline of predictability as to how well the student is going to do in that year's PSSA test.

Q. Now, as you look at this exhibit, page 18 of Exhibit P-39, it shows foresight reading results, 8/28/2009, and foresight math results, 8/28/2009. And that would be the beginning of the year in which George was in tenth grade; correct?

A. In tenth grade?

Q. Tenth grade. The beginning of the current school year.

A. Of '08-'09, he would ---.

Q. The current school year. It's the beginning of the current school year.

A. That would be '09-'10.

Q. Okay.

A. This is '08-'09. But it looks like they were given --- you know, they were given, I guess, in August of '09.

Q. Okay. The baseline, first, second and third, do you know what that means?

A. Yes.

Q. What does it mean?

A. It's simply the first test, second test, third test and fourth test, when they're given as far as

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the PSSA indicator is concerned.
Q. Now, are the foresights --- are they achievement tests?
A. No, they're not achievement tests, but they're ---.
Q. Go ahead.
A. But they're not nearly as criterion reference test as the PSSA is.
Q. Okay. And that means what?
A. That means that all of the --- all the information that is contained on this, called the high school foresight test, is eleventh grade information. So we cannot say that George's scores on these four tests that he has actually been exposed or taught all of the information, because he's not an eleventh grader yet.
Q. Okay. Is the content of the foresight tests eleventh grade material?
A. Yes, regardless of the year that it's taken in.
Q. So if the exhibit on page 18 of P-39 was given to George during the school year '08-'09, that would be in George's ninth grade year; correct?
A. Correct.
Q. But it would reflect eleventh grade material?

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A. There would be eleventh grade material on that test. That's correct.
Q. Okay. Now, can you explain why there's a baseline score, the first, the second and the third score?
A. The baseline score is rather misleading. It's really the first test, and it really doesn't have any more significance than the other three tests.
Q. Now, in her Direct testimony, Mrs. Peiffer was shown this particular exhibit. And she was asked the question, looking at the baseline --- and I'm reading from page 607 of the transcript. Looking at the baseline to actually the third quarter, do you think he improves overall? And her answer was, no, he was going downhill. Now, do you agree or disagree with that statement?

ATTORNEY HUSIC:

I'm going to raise an objection. Again, similar to prior objections, we did have the witnesses here who administered the reading and also who administered the math tests. And since those were the direct administrators of these particular program of foresight reading results, those witnesses would've been in a better position to address the

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particular questions since Doctor Sheats ---. I mean, essentially the purpose of his testimony is just serving as an interpreter of test results, when the better test interpreter, the best evidence would've been the teachers who actually administered the tests to explain these documents.

HEARING OFFICER:

To respond?

ATTORNEY CLARK:

Well, I think it's an argument to say that the teachers would be the better interpreter. I think Doctor Sheats has clearly demonstrated his experience in testing and assessments and statistical analysis of those assessments. He's taught this at the graduate level and clearly is qualified to give an answer to this question and to explain how this plays in regard to the rest of the PSSA testing scheme.

ATTORNEY HUSIC:

Well, I did not object to the information regarding the foresight --- a description of the foresight test itself. I am objecting to the testimony about the results of the test and interpreting the test results.

HEARING OFFICER:

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Well, I don't think the question is asked to interpret the results. It's asked to agree with an opinion asserted by Ms. Peiffer. So to that extent, I'll overrule the objection and you can --- you can give your opinion as to, in light of Ms. Peiffer's testimony, whether or not you agree with her opinion or not.
A. I do not agree with her. You cannot state that there is a positive --- a positive growth or a negative growth, because you don't know what concepts were tested that George has not been exposed to or he has, in fact, mastered.

BY ATTORNEY CLARK:

Q. I want to ask you some questions about some testimony that was given earlier on in this proceeding, and then I'm going to ask whether you agree or disagree. I'm going to read to you some testimony and the place in the record where that occurred.
My first question to you pertains to testimony from Mr. Klein, and it's at pages 260 and 261. And in that section he testified, my conclusion at the end of that class — and this was a class with Mr. Bingaman — was that George might understand some of the concepts, but without

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significant adaptation and modification to the lesson that was going on, he would not have been, you know, successful at all if Mr. Bingaman had not been with him on a one --- basically a one-to-one basis. My question, do you agree with that or disagree with that assessment?

ATTORNEY HUSIC:
Objection. I'm going to object to this witness testifying and commenting on any comments that were subject to Andy Klein's testimony, based upon Andy Klein being offered and accepted as an expert in special education and with his extensive background as a special ed administrator, an instructor of special ed classes over the course of the years. And therefore, I would have an objection to any comments regarding Andy Klein's opinion.

HEARING OFFICER:
Well, I don't think there's a foundations issue any longer, because the witness has testified that he's certified in special ed, and as a Director of Pupil Personnel Services, would've had experience in the oversight and administration of special education programs. So I think the witness is qualified, based on that

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testimony, to now speak to those issues. However, I'll sustain the objection because I don't think this witness can talk about the characterization of an observation that he was not present at.

ATTORNEY CLARK:
Well, and I'll rephrase the question. Okay? I will rephrase the question.

BY ATTORNEY CLARK:
Q. Do you need me to repeat that passage?
A. No.
Q. Okay. Having heard that passage, to what extent, if at all, are adaptations and modifications of lessons part of special education?
A. The accommodations that are made for students in the regular curriculum or any other curriculum are the essence of the individual child. It's what the child needs to be successful.
Q. So with that, do you agree or disagree with what Mr. Klein said?
A. I would disagree. I can tell you in 42 years in education, without actually speaking to the child to determine what was digested, what was absorbed and what wasn't, I couldn't do that in a single 42-minute or 45-minute observation.

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ATTORNEY HUSIC:
Now, I'm going to raise an objection to any further reading and recitation from Mr. Klein's testimony, asking this witness to respond. I'll stipulate that this witness would say that he doesn't agree with anything that Mr. Klein had said, and rather than going on for another hour about this, I will stipulate that this --- that's what this witness' testimony would be.

HEARING OFFICER:
The offer for stipulation is that this witness disagrees with Mr. Klein.

ATTORNEY CLARK:
Well, but I think that there are some factual things that need to be reviewed into the record, and it's not going to take an hour. It's going to take a lot less, you know. You know, I'm going to do this efficiently like I've done the rest of this case, so ---.

HEARING OFFICER:
Well ---.

ATTORNEY HUSIC:
If it has to do with the observation, you know, I submit that all that should be stricken.

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HEARING OFFICER:
I would tend to agree. I don't know that this witness can talk about conclusions he draws from observation.

ATTORNEY CLARK:
Well, that's not where he testified.

HEARING OFFICER:
I grant you, the last question asked was, do students who require specially designed instruction benefit from modifications and adaptations? And the answer was, yes. That's an allowable question. But it was after re-asking about Mr. Klein's observations. So to the extent that it's this is what Mr. Klein observed and reports, do you agree, I don't think that will be an allowable question. So let's establish that up front.
If it is is this what special education students require, then that's a different question. So to the extent that it is reflective of what Mr. Klein observed and/or reported, I don't think this witness will have knowledge --- at least that I'm not aware the witness would have knowledge that he can testify to those things. So with that kind of

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instruction, I'll allow questions to be asked, but certainly I'll rely on Counsel to object if she thinks that ---

ATTORNEY HUSIC:
Uh-huh (yes).

HEARING OFFICER:
--- it's beyond the scope of this witness' knowledge.

ATTORNEY CLARK:
Okay.

BY ATTORNEY CLARK:

Q. On page 263 of Mr. Klein's testimony he said from a special educator's perspective, there's a number of things. Number one, George's measured intellectual potential in 2002, seven years early, has been approximately 90 on a full scale. Now, in this particular report, I believe his full scale was 73, so it had dropped equivalent of a standard deviation a little bit more. And that's a concern for us in special education, because unless the child has, or the adolescent in this case, has sustained a traumatic brain injury, some sort of significant medical condition like meningitis or encephalitis, God forbid, unless there's been something significant like that,

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since IQ is generally stable over time, I was concerned that it had dropped a standard more than a standard deviation in the seven years since he had been given a complete battery. Do you agree or disagree with that characterization?

ATTORNEY HUSIC:
I'm going to raise an objection. I don't understand. That was an opinion that Mr. Klein rendered. I don't see how this witness can testify to that. The scores --- his IQ's already show that there are --- that they've fluctuated over the course of the years and there has been a significant decrease. And I think the documents speak for itself in those regards.

HEARING OFFICER:
Response?

ATTORNEY CLARK:
This is clearly within a realm of expertise that he's qualified to render. He is knowledgeable in this area. He's qualified to render an opinion. He's qualified to address a purported statement of fact by Mr. Klein that this is an area of significant concern.

ATTORNEY HUSIC:
I think that the more appropriate

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witness would've been the Director of Special Education to address this particular issue. This question was not asked when she was up on Direct Examination.

HEARING OFFICER:
Well, I'll overrule the objection. You can answer the question. If you were given a report where over seven a years a student like George's IQ had dropped from a reported 90 to a reported 73, what would your opinion of those results reveal to you?

A. Number one, the total state of his dated thinking. IQ's can't be increased through specific direction. The other thing that I would've asked immediately --- and I don't understand why that wasn't asked. The tests had been renormed from the time he took the original test until he took the follow-up test. So I would want to make sure that I knew where the scale scores, the standard scores were so that I could make a more reliable assessment. Doctor Grisolano and Ms. Yellets both indicated in their reports that they did not believe that their IQ assessment was a valid assessment.

BY ATTORNEY CLARK:

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Q. On page 266, Mr. Klein's testimony, he said, the verbal comprehension index of an IQ test is heavily laden with the acquisition of academic information generally. So the argument can be made that if you're not acquiring skills in a timely fashion, then you are going to be somewhat prejudiced within that particular area of the test, which can commensurately, at least theoretically, you know, lower the score. So that --- I mean, that's a theory. I mean, that's debatable. Do you agree or disagree with that statement?

ATTORNEY HUSIC:
I'm going to continue to raise an objection to this. The problem is the District disclosed that their psychologist --- and she was unable to testify. And what's happening here basically is the supervisor --- the superintendent, I'm sorry, is testifying in lieu of what a psychologist should've testified to that, or perhaps Ms. Sawyer would've testified to that, or perhaps what even Mr. --- Doctor Grisolano could've testified.
And I think we're getting to a point now where this is getting into pure psychological

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analysis. And you know, Doctor Sheats earlier did indicate that, you know, while he did give some tests, he did not serve as a school psychologist to do that.

HEARING OFFICER:

I recognize that in terms of his background and experience. I'll allow the question. What concerns me is I don't want --- not want large passages of transcript reread into the record. So if you can say, Doctor Klein testified to this, and then ask your question, it will allow us to move through this more quickly, because we've done that with every witness at this point, and I don't need a full page of transcript read in to this point of the transcript.

So let's have the question again without the quotation from transcript. Just ask him the question for the point you'd like to elucidate, and we'll here his answer.

BY ATTORNEY CLARK:

Q. You were present for Mr. Klein's testimony when he expressed a theory that a student who's not acquiring skills in a timely fashion can be prejudiced within the administration of an IQ test?

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A. That is a theory, and that theory cannot be documented.

Q. You know of no instance where it has been documented?

A. I know of instances in which a trauma has occurred that you could say, okay, that documents it. But from the philosophical state, no, I cannot.

Q. Where Mr. Klein called the PSSA, group administered standardized Pennsylvania achievement test, do you agree or disagree with that?

A. He's absolutely wrong.

Q. And why is that?

A. It is a criterion reference test. It is not an achievement test.

Q. Does it measure whether students make adequate yearly progress?

A. No.

Q. Do students make AYP?

A. No.

Q. Who does make AYP?

A. School districts and groups of students.

Q. And on that score, what is Susquenita's experience with AYP --- Susquenita High School's experience with AYP?

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A. We are the only school district in Perry County that made AYP last year.

Q. How many school districts are in Perry County?

A. Four.

Q. Are you familiar with curricular requirements for vocational education programming?

A. Yes.

Q. In what capacity are you familiar with the vocational --- the curricular requirements for the vocational programming?

A. The superintendents meet once a month to be briefed on that material by the executive director at the vo-tech.

Q. Are there any requirements in place with regard to vocational students and their exposure to algebra curriculum?

ATTORNEY HUSIC:

I'm going to raise an objection. I think this --- the curricular on vo-tech, other than the superintendent meeting, you know, with his peers, does go beyond the scope of his experience and expertise and his background. And I think this is getting far afield of what this witness is testifying to.

HEARING OFFICER:

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Mr. Clark, any response?

ATTORNEY CLARK:

As the Superintendent of Schools, he has regular meetings with the chief school administrator for the vo-tech school, and from that, he's aware of the curricular requirements of the vo-tech school. I mean, he's got to know that so he can align those students' instruction with what they're getting at Susquenita. He has a basis to know and he has a need to know and has actual knowledge. He can testify on that.

ATTORNEY HUSICS:

Well, we had the principal of Vo-tech here. We had teachers from Vo-tech here, and none of them were asked this particular question, and it would've been more appropriate for them to ask --- to ask those individuals than the superintendent.

HEARING OFFICER:

Well, I think it's an appropriate question. I don't know that it's asked --- I think it's beyond the scope of the witness' knowledge as asked. I heard the question as, are you aware of components of algebra in the --- I don't know whether curriculum or instruction, but

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are you aware of the components of algebra at the vo-tech? And I'm going to sustain the objection. I'd like more of a foundation of what you're ---

ATTORNEY CLARK:
Uh-huh (yes).

HEARING OFFICER:
--- asking this witness to testify to about vo-tech program.

BY ATTORNEY CLARK:
Q. When you meet with the chief school administrator for the vo-tech school, are you apprised of curricular requirements for vocational education?
A. Yes.
Q. In what way?
A. Well, the most current major concerning curriculum requirement is Carl Perkins is the vo-tech grants efforts directives only --- that's not correct --- directed mainly at vocational technical schools. Some high schools also are impacted by the Carl Perkins. Starting not this year, but last year, one shop per year, the students will be denied admission at vo-tech unless they have completed algebra.
Q. And you know that from what?

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A. Well, I know that from the requirements of the Carl Perkins Grant as well as the information that the director of the vo-tech has given to the superintendents.
Q. And what implications does that have for student programming of vo-tech students?

ATTORNEY HUSIC:
I'm going to raise an objection. I think interpretation of the Carl Perkins Act and, you know, how this fits in --- we had the algebra teacher here. I think this is getting far afield of this particular witness' testimony and I think it's beyond his scope.

HEARING OFFICER:
I'm not sure that it's a relevant question.

ATTORNEY CLARK:
Well, let me explain. There is a contention that George is not appropriate for algebra, and this witness is testifying that algebra is now a requirement to take shop courses at vo-tech.

ATTORNEY HUSIC:
Well, it's actually ---.

ATTORNEY CLARK:

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And that is a requirement of the Perkins Act.

ATTORNEY HUSIC:
Well, it's actually a moot point. George took, I guess, what was a pre-algebra class. He completed an algebra class. He's in geometry class now. Whether he got anything out of the class is another matter. I mean, if we establish he has a learning disability in math, which no one from the District has acknowledged and still does not acknowledge, but I think the point is really moot since George already completed his algebra.

HEARING OFFICER:
Yeah. Well, I'm going to sustain the objection to the extent that --- well, let me ask you this question. When George passed basic algebra, did that meet the requirement as you understand it?
A. Yes.

HEARING OFFICER:
Okay. Let the record show that at S-17 George got a final grade of 79, which is a C, in basic algebra at the end of ninth grade, so I'll consider the question as moot and we can move

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on.
(School District's Exhibit 17 marked for identification.)

BY ATTORNEY CLARK:
Q. To what extent, if at all, Doctor Sheats, are PSSA scores a diagnostic tool for assessing eligibility for special education?

ATTORNEY HUSIC:
I'm going to raise an objection. There is just absolutely, you know, no basis that even the Parents have asserted that PSSA scores were in some reason --- in some effect ineligibility for special education. It's just irrelevant to the inquiry or the Parents' claim at this hearing for compensatory education.

HEARING OFFICER:
Well, I'll overrule the objection. You can answer the question.
A. They have no value as far as that is concerned.

BY ATTORNEY CLARK:
Q. To what extent, if at all, are PSSA scores an assessment to evaluate progress under a special education program?

ATTORNEY HUSIC:

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Same objection. Just what is the relevance?
HEARING OFFICER:
I'll overrule the objection. You can answer the question.
A. I would say none.
ATTORNEY CLARK:
No other questions.
HEARING OFFICER:
Okay. Ms. Husic will now have questions for you on Cross Examination.
CROSS EXAMINATION
BY ATTORNEY HUSIC:
Q. Good evening. Just have a few questions for you, Doctor Sheats. When you talked about the PSSA tests, I suppose, what students have been through or what they've learned through eleventh grade in reading and math, I think that you said something to that effect in your testimony.
A. What?
Q. The PSSAs assess what students have been taught for eleventh grade in reading and math?
A. That's correct.
Q. Is that fairly accurate?
A. Yes.

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Q. What I'm wondering is, are there instances of some students that ---?
A. That ---.
Q. Oh, go ahead.
A. That has to do with the foresight.
Q. Okay.
A. Okay? Now, the PSSA is absolute what has been taught through eleventh grade, but foresight are --- would he the same kind of criteria within the --- within the test foundation.
Q. Okay. On the scoring for below basic, basic, advanced, proficient, that sort of thing, are there instances where you have some students that never score above the below basic throughout their term at the school?
A. Yes.
Q. Okay. When you talked about the groupings for your AYP, do you happen to know offhand the grouping as to special ed students and how they perform on your AYP data?
A. Until this year, we have not had a summative number for students ---
Q. Uh-huh (yes).
A. --- at the high school that's based on one grade of a student plan, one --- a grade level of

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students as opposed to the middle school and the elementary school that could be based on two to three or four years. Okay?
Q. Okay. Are there some students or any students that are excused from the Standards classes for any reason?
A. No.
Q. What I'm wondering, in this school year, as you know, George, George's Standards Reading class was sort of replaced, if you will, with the Wilson Reading. Did you consider that as George being excused from Standards Reading for him to take the Wilson program?
A. No, because the Wilson --- the key points and goals of Wilson are --- the Pennsylvania standards are within that program. We can't have a class now that doesn't address the standards. Every class we teach addresses the standards.
ATTORNEY HUSIC:
Doctor Sheats, I don't have anything further. Thank you.
HEARING OFFICER:
Any questions on Redirect?
ATTORNEY CLARK:
No.

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HEARING OFFICER:
Okay. I think I have a few questions for you, Doctor Sheats, and then let me --- let us let you go. For a student such as George, is Standards --- what we've called Standards Reading and Standards Math, are those part of his graduation requirements?
A. Yes, he would --- he's graduating by credit as opposed to IEP.
HEARING OFFICER:
So how many math credits are required for graduation from Susquenita?
A. Actually, three for George's class.
HEARING OFFICER:
So I'm looking at S-17.
A. Oh, S-17.
HEARING OFFICER:
Correct. You're in the Parents'. That's S-17. Now, to earn a credit for graduation, what is the minimum? How does a student pass? Do they pass with Ds?
A. Yes.
HEARING OFFICER:
Okay. So on S-17, it looks like on line one, basic algebra, George has earned one

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credit in basic algebra.
A. Correct.
HEARING OFFICER:
And then further down towards the bottom it lists Standards, and there was testimony earlier that we don't know why there are two different scores. But regardless, it appears as if he has passed Standards Math with either a 75 or a 77; is that right?
A. Well, the person that said we don't know why that is the case, we do know why that's the case. I mean --- and you're looking --- he's not looking at three credits in Standards if that's what you're asking me.
HEARING OFFICER:
Well, I haven't asked you yet, but let me ask you.
A. I'm sorry.
HEARING OFFICER:
And based on what you just told me, volunteered, is it incorrect for me to look at this and say that he has not earned 1.5 credits in Standards Math?
A. That's correct.
HEARING OFFICER:

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Why would that be an incorrect reading of the report card?
A. When this particular card was calculated --- we use a program called PowerSchool, and PowerSchool couldn't make accommodations within its software program to determine whether or not it was a half credit, full credit, because we had students that actually tested out of the classes. So this report card is not an accurate assessment. We have corrected the report card so that PowerSchool now can determine how students can test out of the program. If they have two consecutive proficient scores, they can test out, and we have now made the adjustment within that computer program that will allow for that, so this is not an accurate --- not an accurate report.
HEARING OFFICER:
Okay. So are you saying that the foresight testing requirement is different in terms of whether or not a student is assigned credit for graduation?
A. No. No, I'm not, but you can --- you have to have two --- in order to test out, you have to have two consecutive proficient scores on the foresight. So that very well means --- that very

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well could mean that you're out at the end of the first semester or you're out three quarters of the way through the year or you could test out at the very end of the year.
HEARING OFFICER:
I'll grant you that. My question is, if a class like Standards Math is used for graduation requirement, that's based on earned credit at Susquenita?
A. Yes. Once you would get beyond a three, that would become an elective credit. You would get an elective credit as opposed to a math credit.
HEARING OFFICER:
Correct. But I'm saying it would be counted as what I'll call earned credit.
A. That's correct.
HEARING OFFICER:
And earned credit is the benchmark by which you judge whether or not a student has met graduation requirements?
A. Right.
HEARING OFFICER:
So my question is, how --- let me ask it this way. Can you tell me how many credits of math George earned in ninth grade?

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A. I would guess two.
HEARING OFFICER:
Two credits of mathematics?
A. I'm assuming that that's the case. He would've earned an algebra credit and a Standards credit.
HEARING OFFICER:
And it's your testimony that the one --- when it says credits earned 1.5, that that is incorrect on the report card?
A. That is an incorrect statement.
HEARING OFFICER:
Are any of the others incorrect?
A. The others appear to be correct. I'm not quite sure which credits --- which courses are the half credits, so other than the Standards class, it looks correct.
HEARING OFFICER:
Okay. And is the document I'm looking at at S-17 --- would this be considered the, for lack of a better word, official school record of George's ninth grade work, and I mean here in terms of credits towards graduation or is there another document that the School District --- strike that.

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If you looked at a transcripted record of George's work in the high school to this point, does that exist on a document called a transcript or is this report card an official listing of that work?
A. It would be a transcript record. This would be part of the official record based on that date, but the transcript record would be the official record.
HEARING OFFICER:
So it would be the transcript that would reveal how many credits were earned towards graduation? And unless a student failed, it would be greater than zero?
A. Yes, if they pass one course, it would be greater than zero.
HEARING OFFICER:
Well, you had said that --- I'm talking here about Standards Math now. Let me --- maybe I was unclear. In Standards Math, you said, it might be a half credit, it might be a full credit, that it might vary?
A. Correct.
HEARING OFFICER:
So my question is, if a student did

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not fail, then it would be greater than zero credits?
A. That's correct.
HEARING OFFICER:
Okay. But the exact number might be determined?
A. Correct.
HEARING OFFICER:
You heard testimony that George did not attend his Standards Math class at the beginning of this school year; is that correct?
A. Correct.
HEARING OFFICER:
And that the reason, at least through Ms. Lander's testimony, was that he was participating in football?
A. That's correct.
HEARING OFFICER:
Are you aware of why George was not in a mandatory class for --- to participate in football?
A. Well, we had an agreement with the Parents that he would make --- he would make those hours up in the summer school program. So he was in a mandatory class, but in a proposal mom agreed that

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he would make up that --- what was amounting to the first nine or ten weeks in summer school.
HEARING OFFICER:
And that would actually be the upcoming summer, summer of 2010?
A. That's correct.
HEARING OFFICER:
We've seen at P --- I think at P-35, the letter from Doctor Jones, which was dated October 29th, 2008 that you testified that there was another letter when we talked about it as --- I talked about it as the scheduling letter. Do you recall roughly when that letter may have gone out? And perhaps it refreshes your memory as to when the meetings were held.
A. I believe that letter went out somewhere between the sixth and eighth week of school.
HEARING OFFICER:
Okay. So sometime in October?
A. Yes.
HEARING OFFICER:
In thinking about my next question, I believe I --- it was answered in your prior testimony, so I don't have a line of questioning on that. Thank you. I don't have anything

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further. Do you have any questions based on what I asked, Mr. Clark?
ATTORNEY CLARK:
Yeah, just one or two.
REDIRECT EXAMINATION
BY ATTORNEY CLARK:
Q. With regard to the discrepancy in the report card, S-17, and PowerSchool, when did this come to your attention?
A. I don't think I realized this was wrong until someone was testifying about it here at the hearing.
ATTORNEY CLARK:
No more questions.
HEARING OFFICER:
Do you have any questions based on what I asked, Ms. Husic?
ATTORNEY HUSIC:
I do. First, we would like to request either a transcript or a corrected report card.
ATTORNEY CLARK:
Do you have a copy of that here?
A. Yes.
ATTORNEY HUSIC:

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Oh, okay.
ATTORNEY CLARK:
You already have a copy.
HEARING OFFICER:
Well ---.
ATTORNEY CLARK:
Oh, all right.
HEARING OFFICER:
Yeah, let me just note as a matter of record, everyone's now scurrying for files. But in terms of this proceeding, it hasn't been offered as an exhibit, nor will I compel it to be offered as an exhibit, but to the extent that the parties want to see it ---. I'm just noting for the record that I'm not ordering that this transcript be produced.
ATTORNEY CLARK:
I would like it in the record just so we have an up-to-date exhibit.
HEARING OFFICER:
Okay. Okay. So you're offering the exhibit?
ATTORNEY CLARK:
I don't know whose --- it's fine.
HEARING OFFICER:

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You've had a chance now to --- is the exhibit that you intend to offer?
ATTORNEY CLARK:
Yeah, I would like --- yeah. Yes.
HEARING OFFICER:
Okay. So now Ms. Husic has had a chance to look at it. It would come in as School District 45. Is there any objection to me offering up the exhibit?
(School District's Exhibit 45 marked for identification.)
OFF RECORD DISCUSSION
ATTORNEY HUSIC:
What my clients had indicated is that they would also like to have a copy of the letter that went out notifying the family that George would take the Standards classes. In other words, they're saying, you know, if the letter isn't allowed in, why should the transcripts be allowed in?
HEARING OFFICER:
Well, I mean, I hear the Parents to say that they don't want the exhibit as offered, and we had already talked about the fact that we are --- I am holding the parties strictly to the

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five-day disclosure rule in this case. So without Parent agreement, under the regulations --- the regulations say specifically that a party my exclude. It's not within the jurisdiction of the hearing officer that if a document or a witness is not disclosed within five business days of the initial hearing, then the opposing party may exclude. And without the Parents stipulating to the admission of the exhibit, I'll exclude it, so there will be no admission of the transcript.
ATTORNEY CLARK:
Okay.
RECROSS EXAMINATION
BY ATTORNEY CLARK:
Q. Doctor Sheats, it appears that with the credit that George had in ninth grade plus with the credits that he has in tenth that he will have earned enough math credits for graduation. Is that correct?
A. Probably.
Q. So does that mean he will not be taking any more math classes, including the Standards?
A. No. The Standards classes would be offered as elective. Because he would not be eligible to take some of the electives that others might take,

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the elective would be a --- the Standard would be an elective class. But he would get credit under the elective portion as opposed to under the math portion.
Q. All right. So then he would in a sense --- if he didn't have enough time for other electives, he would then be denied, for instance, an elective that he may want to take, because he would be required to take Standards Math?
A. Yeah, that's possible.
Q. Okay. Oh, just one last point. He would not have to take two more math classes anymore for eleventh and twelfth grade?
A. That's correct. He would have his math credits. I'm assuming he would have his math credits in, because he would have --- at the end of this year, I would guess he has at least three math credits.
Q. Okay.
A. Well, one ---.
HEARING OFFICER:
Does that complete your answer, ---
ATTORNEY HUSIC:
I think ---.
HEARING OFFICER:

--- Doctor Sheats?
A. Well, I was going to clarify something. I didn't know if I was permitted to.
HEARING OFFICER:
Well, I'm asking ---
BY ATTORNEY HUSIC:
Q. You can.
HEARING OFFICER:
--- you whether or not your answer's complete?
A. Oh, no. In essence, he will complete his fourth credit in summer school, which technically we will give him credit for the '09-'10. So he'll ultimately --- I'm assuming he will have four math credits at the conclusion, although it'll be past July 1. It would be still credited to '09-'10. So he would have four math credits.
ATTORNEY HUSIC:
Thank you, Doctor Sheats.
HEARING OFFICER:
Does that complete your answer?
A. That's what I was going to say.
HEARING OFFICER:
Okay. So I think the ---.
ATTORNEY HUSIC:

That's fine. I don't have anything further.
HEARING OFFICER:
Okay. Thank you, Doctor Sheats. I know you've been in attendance at every session, and that can't have been easy for a chief school administrator, so I appreciate your participation.
A. Just the one day it was really tough, but ---.
HEARING OFFICER:
We're off the record.
OFF RECORD DISCUSSION
HEARING OFFICER:
All right. We're back on the record. After an off-the-record discussion, when I had indicated to Mr. Clark that my understanding was that the District's case was concluded, he indicated that there might be the need to call another witness on a certain matter. After an offer of proof, I had told the parties that I was no inclined to hear that witness, but Mr. Clark, I told you I'd give you the opportunity to put that on the record, if you wished.
ATTORNEY CLARK:
It would simply just clarify the counting of credits towards math in graduation.

HEARING OFFICER:
Okay. And Ms. Husic, do you have a perspective on the offer of proof and the witness that I'm not inclined to hear?
ATTORNEY HUSIC:
I don't think a new witness is necessary. I think we could get testimony in if we had to go back to Doctor Sheats, but my concern is that --- you know, that it appears now that George may have enough --- when he finishes his class this summer, that he will have completed his math requirements and will no longer be required to take two math classes the remainder of his time here in Susquenita, that is for eleventh and twelfth grade.
HEARING OFFICER:
That was my understanding. Well, I don't know the exact understanding. The parties were sharing things back and forth, but hearing that the witness might be called about clarification of credits for graduation, I indicated that I was not inclined to hear from the witness on that issue, even though credits earned came up on my questioning of Doctor Sheats.
It was with my view to understanding

his testimony, especially in light of S-17, which I asked him about in terms of academic work completed by George and what that reflected in terms of the exhibits in this hearing, to the extent that credits earned towards graduation is a prospective matter rather than a retrospective matter, based on this complaint, I told the parties I was not inclined to hear from a witness about what George needs at this point or going forward to graduate.
And so I didn't see its relevance, told Mr. Clark that I would not hear the witness if that was why the witness was going to be called. And that sets forth my ruling and the position of both parties on the record.
We also discussed closing procedures. Within approximately a week, the transcript will be provided to me and to Counsel. That's Monday, May 3. I told Counsel that I would accept written closings by Monday, May 17th. Those can be postmarked on the 17th or delivered by e-mail attachment by 11:59 p.m. that day, or both, but certainly I should have in my possession, or shortly thereafter by postmark, written closings.
With closings due on Monday, May

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17th, the record will close on that date. My decision is due within 15 calendar days, so my decision will be rendered no later than Tuesday, June 1st. I had ascertained how the parties wanted the decision delivered. Mr. Peiffer, you had indicated that attachment of the decision as an e-mail attachment to your e-mail address was acceptable; is that correct?

MR. PEIFFER:
That's correct.

HEARING OFFICER:
And Ms. Sawyer, you indicated that an e-mail attachment of the decision to you at the District is acceptable; is that correct?

MS. SAWYER:
That is correct.

HEARING OFFICER:
And Mr. Clark, you had indicated that you would receive your decision by e-mail attachment?

ATTORNEY CLARK:
That's correct.

HEARING OFFICER:
And Ms. Husic, by e-mail attachment

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as well?

ATTORNEY HUSIC:
Yes.

HEARING OFFICER:
Okay. I have then set forth the timelines for the rendering of my decision and the means of delivery. I thank everyone for their participation. My decision will be rendered no later than June 1st. We are off the record.

* * * * * * * *

HEARING CONCLUDED AT 5:40 P.M.

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CERTIFICATE

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me, and thereafter reduced to typewriting by me or under my direction; and that this transcript is a true and accurate record to the best of my ability.

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